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Reshaping Trade through Women's Economic Empowerment

Special Report



Reshaping Trade through Women's Economic Empowerment

Special Report

CIGI Masthead

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Acronyms and Abbreviations

APEC	Asia-Pacific Economic Cooperation	ITC	International Trade Centre
BCC	British Chambers of Commerce	MEPs	members of European Parliament
CPTPP	Comprehensive and Progressive Agreement for Trans-Pacific Partnership	MSMEs	micro, small and medium enterprises
CTG	Council for Trade in Goods	NTBs	non-tariff barriers
CTS	Council for Trade in Services	OECD	Organisation for Economic Co-operation and Development
DSB	Dispute Settlement Body	OWIT	Organization of Women in International Trade
EAC	East African Community	RTAs	regional trade agreements
FDI	foreign direct investment	SADC	Southern African Development Community
FTA	free trade agreement	SDGs	Sustainable Development Goals
G20	Group of Twenty	SIAs	sustainable impact assessments
GATT	General Agreement on Tariffs and Trade	SMEs	small to medium-sized enterprises
GrOW	Growth and Economic Opportunities for Women	TiSA	Trade in Services Agreement
GVCs	global value chains	TPRM	trade policy review mechanism
GWIT	Geneva Women in International Trade	TRIPS	Trade-Related Aspects of Intellectual Property Rights
ICBT	informal cross-border trade	UNCITRAL	United Nations Commission on International Trade Law
ICC	International Chamber of Commerce	UNCTAD	United Nations Conference on Trade and Development
ICSID	International Centre for Settlement of Investment Disputes	WTO	World Trade Organization
IDRC	International Development Research Centre		
IIA	international investment agreement		
IMF	International Monetary Fund		
ISA	investor-state arbitration		
ISDS	investor-state dispute settlement		



Introduction

Oonagh E. Fitzgerald

At the December 2017 World Trade Organization (WTO) Ministerial Conference in Buenos Aires, 118 WTO members joined forces to launch the Declaration on Trade and Women’s Economic Empowerment.¹ The members undertook to work together to develop best practices on how to apply gender-based analysis to

domestic economic policy and international trade policy to encourage female entrepreneurship and financial inclusion, remove barriers to women’s participation in trade, and develop useful gender statistics and research. The Centre for International Governance Innovation (CIGI) undertook this essay series to raise awareness about this initiative and contribute to increasing understanding of how the declaration might contribute to economic empowerment of women.

We were curious to learn whether this declaration signalled that WTO membership and the WTO Secretariat would be receptive to including equal representation of women on national delegations, WTO working committees, dispute-settlement panels and in senior management of the WTO Secretariat. We wanted to know whether they would favour using gender-based analysis in policy deliberation, interpretation of the WTO agreements, negotiation of new agreements, dispute settlement and trade policy review. We were interested in knowing whether they would be inclined to work collaboratively with other international

¹ WTO, *Joint Declaration on Trade and Women’s Economic Empowerment on the Occasion of the WTO Ministerial Conference in Buenos Aires in December 2017*, online: <www.wto.org/english/thewto_e/minist_e/mc11_e/genderdeclarationmc11_e.pdf>. Since then, several more countries have joined, with membership now including Afghanistan, Albania, Angola, Argentina, Australia, Barbados, Benin, Brazil, Burundi, Cambodia, Canada, Chad, Chile, China, Colombia, Costa Rica, Côte d’Ivoire, Democratic Republic of the Congo, Dominica, Dominican Republic, Ecuador, El Salvador, Ethiopia, EU member states (Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden and the United Kingdom), Fiji, Gabon, Gambia, Grenada, Guatemala, Guinea, Guinea Bissau, Guyana, Haiti, Honduras, Iceland, Indonesia, Israel, Jamaica, Japan, Kazakhstan, Kenya, Korea (Republic of), Kyrgyzstan, Lao People’s Democratic Republic, Lesotho, Liberia, Liechtenstein, Madagascar, Malawi, Malaysia, Mali, Mauritius, Mexico, Moldova, Mongolia, Montenegro, Myanmar, Namibia, Nepal, New Zealand, Niger, Nigeria, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Russia, Rwanda, St. Kitts and Nevis, St. Vincent and the Grenadines, Samoa, Senegal, Serbia, Sierra Leone, Somalia, Sudan, Swaziland, Switzerland, Chinese Taipei, Tajikistan, Macedonia, Togo, Tonga, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, Uruguay, Vanuatu, Vietnam and Zambia. See International Gender Champions, Trade Impact Working Group, “Call for Good Practices”, online: <<https://genderchampions.com/impact/trade>>.

governmental and non-governmental organizations to contribute to collective and urgent action to achieve the 2030 Sustainable Development Goals (SDGs),² including SDG 5³ on achieving gender equality. We wondered whether the field of international investment law might also be developing to take greater consideration of gender equality in the composition of arbitral panels, and of gender-based analysis in arbitral decision making, with a view to promoting women's economic empowerment. We were interested in understanding whether actions to increase women's economic empowerment through trade and investment would be pursued at the national level, in bilateral and regional relations, and multilaterally.

In this series of commentaries, leaders and experts in trade, investment, development, human rights and women's rights explore the strengths and weaknesses of the declaration, and the opportunities and challenges in realizing the declaration's goal of economic empowerment of women through inclusion in domestic and international trade and investment. The contributors point out that neutral language in trade agreements may nonetheless result in differential effects because of the different social, economic and legal status of men and women, as well as practical barriers to women's participation in the workforce and economy. There appears to be a correlation between recognition of rights and participation of women in the economy, suggesting that the original concept of the Charter of the United Nations,⁴ in which human rights, including the equal rights of women, and social and economic development, are identified as pillars that support global peace and security.

There are measures that can be taken at the domestic, bilateral, regional and international level to improve equality of women and girls, and improve women's participation in the workforce and in high productivity jobs. One such approach is the "progressive" or "inclusive" trade agenda, which seeks to include small and medium enterprises, Indigenous peoples and women in global trade by using model chapters designed to promote development. Gender-disaggregated data collection, gender-based analysis of trade policies and case studies of trade impacts on women will all contribute to deepening the understanding of how to improve women's participation in the economy. This essay series is meant to contribute to the momentum built in Buenos Aires to determine how trade can be made more inclusive of women, and to develop the means at domestic, bilateral, regional and multilateral levels to accomplish this important objective.

2 UN Development Programme, "Sustainable Development Goals", online: <www.undp.org/content/undp/en/home/sustainable-development-goals.html>.

3 UN Women, "SDG 5: Achieve gender equality and empower all women and girls", online: <www.unwomen.org/en/news/in-focus/women-and-the-sdgs/sdg-5-gender-equality>.

4 *Charter of the United Nations*, 26 June 1945, Can TS 1945 No 7 (entered into force 24 October 1945), online: <<https://treaties.un.org/doc/publication/ctc/uncharter.pdf>>.



Reuniting Trade and Human Rights

Oonagh E. Fitzgerald

With urgent work to be done to achieve the UN Sustainable Development Goals (SDGs)¹ — notably SDG 5: achieve gender equality and empower all women and girls by 2030² — many trade ministers have realized they can no longer afford to treat trade in isolation from its gender-related human rights impacts. We are rediscovering an idea that was obvious to the framers of the post-World War II international legal order: there is a connection between human rights (including the equal rights of women), stable economic and social progress, and global peace and security. International human rights and international trade law sprang from a coherent desire to establish the social, political and economic pillars that would foster global peace and prosperity.

Today, that post-war understanding is coming to fruition: the SDGs, Canada's progressive trade agenda, and the Joint Declaration on Trade and Women's Economic

Empowerment³ recognize this connection and provide new opportunities for concerted action. But getting to this point of reunion was not easy, given that trade and gender rights born from the same idea — the 1945 Charter of the United Nations⁴ — were separated shortly after birth.

Women's equality to men was a foundational principle of the charter. Its preamble even begins with "We the peoples of the United Nations determined to save succeeding generations from the scourge of war...and to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women."⁵

Article 1, which lists the purposes of the United Nations, includes the mission to "achieve international co-operation in solving international problems of an

1 UN, "Sustainable Development Goals", online: <<https://sustainabledevelopment.un.org/sdgs>>.

2 UN Women, "SDG 5: Achieve gender equality and empower all women and girls", online: <www.unwomen.org/en/news/in-focus/women-and-the-sdgs/sdg-5-gender-equality>.

3 WTO, *Joint Declaration on Trade and Women's Economic Empowerment on the Occasion of the WTO Ministerial Conference in Buenos Aires in December 2017*, online: <www.wto.org/english/thewto_e/minist_e/mc11_e/genderdeclarationmc11_e.pdf>.

4 *Charter of the United Nations*, 26 June 1945, Can TS 1945 No 7 (entered into force 24 October 1945), online: <<https://treaties.un.org/doc/publication/ctc/uncharter.pdf>> [UN Charter].

5 *Ibid*, Preamble.

economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.”⁶

Article 55 of the charter, entitled “International Economic and Social Co-operation,”⁷ reiterated the goal of creating “conditions of stability and well-being which are necessary for peaceful and friendly relations among nations,”⁸ and stated “the United Nations shall promote: a. higher standards of living, full employment, and conditions of economic and social progress and development; b. solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.”⁹

By 1947, the General Agreement on Tariffs and Trade¹⁰ (GATT) was produced, thanks to negotiations focused on trade and employment that were launched under the auspices of the Economic and Social Council. With the failure of the Havana Charter for an International Trade Organization¹¹ — which, had it succeeded, might have kept the links between social and economic development — the GATT survived to establish a system for “the reduction of tariffs and other trade barriers and the elimination of preferences, on a reciprocal and mutually advantageous basis.”¹² In 1995, this was incorporated into the GATT’s successor, the World Trade Organization (WTO).¹³ Human rights are not mentioned in the GATT or WTO agreements and have not been raised in WTO dispute settlement proceedings.

Just as international trade law was developing in its own silo, so was international human rights law. The UN charter’s preambular language on “the equal rights of men and women”¹⁴ was reiterated in the 1948 Universal Declaration of Human Rights.¹⁵ Article 1 proclaims that “all human beings are born free and equal in dignity and

rights,”¹⁶ and article 2 declares that “everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as...sex.”¹⁷

Subsequently, the International Covenant on Economic, Social and Cultural Rights¹⁸ and the International Covenant on Civil and Political Rights¹⁹ completed the International Bill of Human Rights,²⁰ which came into force in 1976.

This progression further developed the principles enunciated in the universal declaration and affirmed that the rights set forth applied to men and women.

Cold War polarization contributed to an ideological divide in international human rights.²¹ Western liberal states emphasized the importance of civil and political rights, while socialist and communist states emphasized the value of economic, social and cultural rights. The Commission on the Status of Women, which began its work in 1948, advanced women’s rights through development of additional specific legal instruments, the most notable being the 1979 Convention on the Elimination of All Forms of Discrimination against Women.²²

Having begun in the common, inclusive vision of the UN charter, international trade law and human rights law evolved separately and independently, allowing for the development of tailored institutions, and a deepening of understanding and expertise in each area.

As the pace of globalization accelerates, however, their continued isolation from each other can be seen to be an impediment to achieving sustainable development for all.

A growing realization that mobile capital and transnational corporations may have been the biggest winners of international trade has led to questions about the legitimacy of international trade deals. Increasing frustration about who receives the benefits of trade and who is saddled with its negative effects

6 *Ibid*, art 1.

7 *Ibid*, art 55.

8 *Ibid*.

9 *Ibid*.

10 *General Agreement on Tariffs and Trade*, 30 October 1947, 55 UNTS 194, TIAS 1700 (entered into force 1 January 1948) [GATT 1947].

11 “United Nations Conference on Trade and Employment” (Conference delivered at the Interim Commission for the International Trade Organization, Havana, Cuba, 21 November 1947–24 March 1948), online: <https://www.wto.org/english/docs_e/legal_e/havana_e.pdf>.

12 GATT 1947, *supra* note 10.

13 WTO, “The GATT years: from Havana to Marrakesh”, online: <www.wto.org/english/thewto_e/whatis_e/tif_e/fact4_e.htm>.

14 UN Charter, *supra* note 4, Preamble.

15 *Universal Declaration of Human Rights*, GA Res 217A (III), UNGAOR, 3rd Sess, Supp No 13, UN Doc A/810 (1948), online: <www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf>.

16 *Ibid*, art 1.

17 *Ibid*, art 2.

18 *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, 993 UNTS (entered into force 3 January 1976), online: <www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>.

19 *International Covenant on Civil and Political Rights*, 19 December 1966, 999 UNTS 171 arts 9–14 (entered into force 23 March 1976), online: <www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

20 *International Bill of Human Rights*, UNGA, 3rd Sess, UN Doc A/RES/3/217 (1948), online: <www.un-documents.net/a3r217.htm>.

21 Bertrand M Patenaude, “Regional Perspectives on Human Rights: The USSR and Russia, Part One”, *Spice Digest* (Fall 2012), online: <http://spice.fsi.stanford.edu/docs/regional_perspectives_on_human_rights_the_ussr_and_russia_part_one>.

22 *UN Women, Convention on the Elimination of All Forms of Discrimination against Women*, 18 December 1979 (entered into force 3 September 1981), online: <www.un.org/womenwatch/daw/cedaw/>.

helped fuel populist rejection of globalized trade in the Brexit referendum vote and the Trump presidential election. While the International Monetary Fund (IMF), the World Bank and the WTO reported recently that trade leads to productivity gains and significant benefits for consumers, especially the poor, they also acknowledged that states need to do more to address the negative impacts of trade behind the border.²³

The extent to which trade promotes equality within a country and between countries has become a crucial question regarding the legitimacy of the international economic legal order.

As a nation that benefits from a stable rules-based international order, Canada has responded to these trends by starting to articulate an “inclusive” or “progressive” trade agenda aimed at promoting development and spreading the benefits of trade to “the middle class and those striving to join it.”²⁴ Further, the Canadian trade agenda is meant to support “gender equality, environmental sustainability and...the needs of small and medium-sized enterprises.”²⁵

Currently, Canada is promoting this agenda in multilateral and bilateral fora. A gender chapter providing a framework for cooperation on gender issues first appeared in the Canada-Chile Free Trade Agreement,²⁶ and Canada has proposed a similar inclusion in the renegotiated North American Free Trade Agreement.²⁷ While the Comprehensive Economic and Trade Agreement between the European Union and Canada includes only minor references to gender,²⁸ Canada announced that the renegotiated Comprehensive and Progressive Agreement for Trans-Pacific Partnership (formerly the Trans-Pacific Partnership), includes a new

preamble with important progressive elements, including promoting gender equality.²⁹

While the progress made separately on women's empowerment and on global economic development since they were first expressed in the UN charter is remarkable, there has been little effort to reconnect the two fields — something that is now recognized as crucial to achieving gender equality by 2030. Arguably, the Joint Declaration on Women's Economic Empowerment could be an important first step to forging greater coherence between economic and human rights law and policy.

The declaration affirms that women's economic empowerment is central to the future of trade and sustainable socio-economic development. While not a binding legal instrument, the declaration announces that the WTO membership and the WTO will be key partners for achieving women's economic empowerment. Thus, the declaration's aim is not about establishing new international norms, but about nudging existing trade law and human rights law closer together, using gender-based analysis to shape trade and socio-economic policy at the national and international level.

Strengthening the relationship between trade and human rights nods to the original common vision of the UN charter and brings women and girls closer to empowerment by 2030.

23 IMF, World Bank & WTO, *Making Trade an Engine of Growth for All: The Case for Trade and for Policies to Facilitate Adjustment*, online: <www.wto.org/english/news_e/news17_e/igo_10apr17_e.htm>.

24 Global Affairs Canada, News Release, “International Trade Minister to champion Canada’s progressive trade agenda at 11th WTO Ministerial Conference in Argentina” (8 December 2017), online: <www.canada.ca/en/global-affairs/news/2017/12/international-tradeministertochampioncanadasprogressivetradeagen.html>.

25 *Ibid.*

26 *Canada-Chile Free Trade Agreement*, 5 December 1996, art N bis-01, (entered into force 5 July 1997), online: <http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/chile-chili/fta-ale/2017_Amend_Modif-App2-Chap-N.aspx?lang=eng>.

27 “Trudeau, Mexico pushing for ‘gender chapter’ in NAFTA deal”, *Global News* (13 October 2017), online: <<https://globalnews.ca/video/3801768/trudeau-pushing-for-gender-chapter-in-nafta-agreement>>.

28 *Comprehensive Economic and Trade Agreement*, 30 October 2016, (entered into force 21 September 2017), online: <www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/ceta-aecg/chapter-summary-resume_chapitre.aspx?lang=eng#a8>.

29 *Comprehensive and Progressive Agreement for Trans-Pacific Partnership*, 8 March 2018, (not yet entered into force), online: <<http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cptpp-ptppg/text-texte/cptpp-ptppg.aspx?lang=eng>>.



Even amid Protectionism, Buenos Aires Gave Women Momentum

Susana Malcorra

The eleventh World Trade Organization (WTO) Ministerial Conference in Buenos Aires resulted in advancements on many fronts, but it also highlighted that we have not moved as far and as fast as one would have liked. Questions about the state of the international trade system overshadowed the deliberations and brought an inward-looking focus that precluded us from achieving an ambitious outcome.

Nevertheless, there is one area of great hope that came out of Buenos Aires — one of those rare moments when an opportunity was seized. The Declaration on Trade and Women's Economic Empowerment¹ was a great success — 118 countries signed it. In times of hesitation about the future of trade, collectively, we were able to

recognize the key role women can play in a fair, just and sustainable international trade system.

The fact that so many countries, both members and observers of the WTO, rallied behind women's empowerment in this field signifies that not everything is lost. Women represent a unique opportunity to equalize the playing field and to increase trade opportunities for all.

Women can create a ripple effect by gaining their rightful position and by formalizing their role in economic terms. Their enhanced capacity to participate in international trade will strengthen their ability to have a positive and decisive influence on themselves, their families and their communities. This is in line with the aspirations we all set for the world when adopting the 2030 Agenda for Sustainable Development in 2015.²

The UN Sustainable Development Goals (SDGs) have a few transversal levers: women and trade are two of

¹ WTO, *Joint Declaration on Trade and Women's Economic Empowerment on the Occasion of the WTO Ministerial Conference in Buenos Aires in December 2017*, online: <www.wto.org/english/thewto_e/minist_e/mc11_e/genderdeclarationmc11_e.pdf>.

² *Transforming our world: the 2030 Agenda for Sustainable Development*, A/RES/70/1, UNGA, 70th Sess, online: <<https://sustainabledevelopment.un.org/post2015/transformingourworld>>.

them.³ By making this commitment explicit through the Buenos Aires declaration, we have reinforced the potential they both have. Not only have we complied with a long overdue decision, we have paved the way for a more equal and integrated world.

I have seen women multiply their opportunities in ways that once seemed impossible. In refugee camps, women are capable of enhancing the basic aid basket they receive for their families through trading, crafting and adding value. Soap or rice can have an amazing effect in the hands of women.

Women in remote areas, with a basic cellphone, sell their homegrown or handmade products in a manner that changes the economy of their household and their community. They walk kilometres, exposed to all kind of hazards, to get to the weekly market and offer their products.

I have seen women transform the lives of those who depend on them with little more than a sewing machine.

These examples are real but lack the power of integration — the multiplying effect that access to financing, land title and effective communications can bring. Humanitarian organizations recognize the proven fact that women outperform men in managing scarce resources, and that women are more capable of making community-conscious decisions when faced with the opportunity.

By signing the Buenos Aires declaration, governments recognized women's contributions to trade and the economy at large — this is a significant first step. Now, it is up to those governments to breathe life into the declaration with policy decisions that make women visible in economic terms. It is not through words, but through deeds that the SDGs will have the impact they were meant to have.

I am convinced that the supporters of women's economic empowerment and participation in trade have been strengthened in Buenos Aires. They must now deliver on their promise of support. This is not about adopting a politically correct approach; it is about impacting the lives of people all over the planet.

Women's economic empowerment means not leaving anyone behind, giving women the opportunity to fulfill their potential in a world that is equal for all. Let's keep the flame high; let's work for this future in an inclusive way that maximizes the impact on all and for all.

The impact can only come with a continuation of the momentum built in Buenos Aires. With the right implementation, the WTO Ministerial Conference will be remembered as a foundational step toward building a better future in which women take half the burden and half the opportunity, as it is fair and as it must be.

3 UN, "Sustainable Development Goals", online: <<https://sustainabledevelopment.un.org/sdgs>>.



Advancing Gender Equality through Trade

François-Philippe Champagne

Trade Is Not Gender Neutral

Canada continues to be a vocal proponent for open, rules-based trade and markets and is a champion of those principles on the world stage. Canada's progressive trade agenda not only serves as a buttress against the forces of protectionism, but it has real economic value, too.

Trade is critical to current and future prosperity, but if Canada is to effectively protect and expand upon global markets, its government cannot afford to do trade the way it has always been done before.

Canada's 2018 federal budget made equality of access and opportunity a central pillar of how the country can grow and strengthen the economy. Canada is taking that approach in its progressive trade agenda to ensure that more women are engaged in trade and reaping the rewards that come with it.

This is not only the right thing to do; it just makes economic sense.

Leaving 50 percent of the team on the bench means that 50 percent of the team's strengths and capabilities are left on the bench, too. And when governments fail to see trade through a gendered lens, they fail to see that trade has not benefited women and men equally. In fact, only 11 percent of women-owned businesses are engaged in international trade.¹ Neglecting to look squarely at the numbers and ask whether trade is gender neutral effectively resigns women to the bench. The costs of doing so are stark. In Canada alone, removing the barriers to more women engaging in international trade would boost the economy by CDN\$150 billion.²

1 Canadian Trade Commissioner Service, "Majority-Female Owned Exporting SMEs in Canada", online: <http://tradecommissioner.gc.ca/businesswomen-femmesdaffaires/2016-MFO_SMES-PME_EDMF.aspx?lang=eng>.

2 Sandrine Devillard et al, *The power of parity: Advancing women's equality in Canada* (New York, NY: McKinsey & Company, 2017), online: <www.mckinsey.com/global-themes/gender-equality/the-power-of-parity-advancing-womens-equality-in-canada>.

Those who believe that trade is gender neutral argue that trade liberalization automatically produces growth for all through the reduction of barriers to trade, such as import tariffs, promoting international trade and competition.

If this were true, a recent report released by the McKinsey Global Institute would not have found that advancing women's equality could add US\$12 trillion to global GDP by 2025.³

Of course, trade has lifted millions — if not billions — out of poverty. Trade has provided unparalleled growth and opportunity and has been a significant stimulus for Canada's economic growth and prosperity. Now, during a time of rising skepticism and protectionism, is the time to evaluate whether more can be done. For example, a United Nations study estimates that if female farmers in developing countries had the same access to productive resources as men, their farm yields would grow by 20 to 30 percent; total agricultural outputs would rise by 2.5 to four percent in those countries; and the number of people affected by hunger would decrease by 12 to 17 percent.⁴

The fact is that significant gender-related barriers, which limit or distort trade, still exist. These barriers represent missed trade-related opportunities for economic growth in national and international economies. By working to remove them, women's economic empowerment and gender equality stand to benefit.

Building Momentum

Canada will continue to promote a global trading system that reflects the hard-headed recognition that a progressive trade agenda is necessary for improving productivity and competing and winning on the world stage.

An area of particular focus has been trade and gender. One of the most significant examples is the inclusion of a dedicated trade and gender chapter in the modernized Canada-Chile Free Trade Agreement (FTA).⁵ June 2017 marked Canada's first gender chapter with its Chilean counterparts; it was also the first of its kind for any Group of Seven or Group of Twenty country. The chapter acknowledges the importance of incorporating a gender perspective into economic and trade issues

to ensure that economic growth can benefit everyone. It also provides a framework for Canada and Chile to undertake cooperation activities on issues related to gender and trade, and it establishes a bilateral committee under the Canada-Chile FTA that would oversee these cooperation activities.

While the Canada-Chile trade and gender chapter was a first for Canada, it is just the beginning. Going forward, Canada has sought to incorporate gender provisions in future FTAs to help ensure that women and women-owned small and medium-sized enterprises can fully engage in the opportunities that flow from trade and investment. For instance, Canada is actively seeking a trade and gender chapter in the modernization of the Canada-Israel Free Trade Agreement, ongoing negotiations with the Pacific Alliance and Mercosur, and the renegotiation of the North American Free Trade Agreement.

Canada also continues to identify areas outside the trade and gender chapter to include other progressive, gender-related provisions. The Comprehensive and Progressive Agreement for Trans-Pacific Partnership, for example, has gender-related provisions in its preamble, labour chapter, cooperation and capacity-building chapter, and development chapter.⁶

Acknowledging the importance of incorporating a gender perspective into trade negotiations and agreements is critical for mobilizing every resource and, ultimately, positioning the country for success, not just in five years' time, but in 20 and 50 years as well.

Joint Declaration Puts Focus on Trade and Gender

I continue to be proud of Canada's leadership role in championing the modernization of the World Trade Organization (WTO), particularly when it comes to creating more opportunities for more people to engage in trade.

The Declaration on Trade and Women's Economic Empowerment on the occasion of the WTO Ministerial Conference in Buenos Aires in December 2017⁷ was initiated by the governments of Iceland and Sierra Leone, as well as the International Trade Centre. The declaration serves as a catalyst seeking to remove

3 Jonathan Woetzel et al, *The power of parity: How advancing women's equality can add \$12 trillion to global growth* (New York, NY: McKinsey & Company, 2015), online: <www.mckinsey.com/global-themes/employment-and-growth/how-advancing-womens-equality-can-add-12-trillion-to-global-growth>.

4 UN Women Watch, "Facts & Figures: Rural Women and the Millennium Development Goals", online: <www.un.org/womenwatch/feature/ruralwomen/facts-figures.html>.

5 *Canada-Chile Free Trade Agreement*, 5 December 1996, (entered into force 5 July 1997), online: <<http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/chile-chili/fta-ale/index.aspx?lang=eng>>.

6 *Comprehensive and Progressive Agreement for Trans-Pacific Partnership*, 8 March 2018, (not yet entered into force), online: <<http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cptpp-ptpp/text-texte/cptpp-ptpp.aspx?lang=eng>>.

7 WTO, *Joint Declaration on Trade and Women's Economic Empowerment on the Occasion of the WTO Ministerial Conference in Buenos Aires in December 2017*, online: <www.wto.org/english/thewto_e/minist_e/mc11_e/genderdeclarationmc11_e.pdf>.

barriers to — and foster — women's economic empowerment.

At the time of publication, 119 members of the WTO had signed on to this pioneering declaration, representing 72.5 percent of WTO members. Through the declaration, signatories agreed to find ways to best address barriers to trade, lack of access to trade financing and low participation of women in public procurement markets. Participating members will exchange information about what has worked — and what has not — in their attempts to collect gender-disaggregated data and to encourage women's participation in the economy.

Participating WTO members will examine their own policies through a gendered lens and find ways to work together to increase women's participation in the world economy. The commitments are poised to reduce trade barriers for women through sharing knowledge and collecting gender-disaggregated data which, in turn, advances gender equality and women's economic empowerment through trade. Progress will be reported in 2019.

Canada was a key leader in the drafting and promotion of this initiative through the Trade Impact Group of the International Gender Champions network.⁸ The declaration adapts Canada's FTA gender chapter with Chile to a multilateral context by establishing commitments for action and collaboration within the WTO.

That stated, Canada's progressive approach to trade and gender at the WTO started ahead of the December declaration. Most recently, through the Trade in Services Agreement (TiSA),⁹ a services/trade-only agreement is currently being negotiated by 23 members of the WTO, including Canada.

In July 2017, Canada also proposed an innovative provision in the WTO Working Party on Domestic Regulation that would ensure domestic regulations do not discriminate on the basis of gender.¹⁰ If adopted, the provision would ensure that measures relating to licensing and qualification requirements and procedures do not discriminate on the basis of gender. Achieving improved commitments from all TiSA parties to address Canadian interests in key sectors, such as professional services, environmental

services, information communications technology services and financial services, and limiting gender-based discrimination would be significant, as the participating countries account for 70 percent of world trade in services.

Some critics have said that the WTO is not the platform to discuss gender, while others have said that gender has no place in any trade agreement. Trade should be a march to the top, not a race to the bottom. Supporters of the declaration believe in unleashing a full spectrum of talents, so that hard-working people can compete and win on the world stage. Canada believes in engaging more people, particularly those who are historically underrepresented in trade; a progressive trade agenda can marry the benefits that have always come from trade with their interests.

After all, this is about job creation and job quality.

Looking to the Future: Making Trade Real for Everyone

More governments and multilateral institutions are incorporating a gendered lens into trade policy. Indeed, trade specialists have noted that focusing on gender and including targeted chapters on trade and gender have been positive developments, helping to raise awareness and highlight the gaps that still exist.¹¹

Canada's 2018 budget went through a full gender-based analysis, examining how every spending measure or tax would affect men and women in different ways, while also looking at other intersecting factors such as income, age, race and more.¹² This budget also saw the introduction of a gender results framework that assesses the impact that this budget — and future budgets — will have on advancing gender equality.¹³ To ensure robust data collection — a critical component to getting this right — CDN\$6.7 million over five years and CDN\$600,000 a year thereafter have been allocated to Statistics Canada to establish a new Centre for Gender, Diversity and Inclusion Statistics.¹⁴

Canada's chief economist recently presented Canada's approach to gender-based analysis at the WTO and has counterparts across government to address the lack of

8 International Gender Champions, "IGC Trade Impact Group Prepares Declaration on Trade & Gender", online: <<https://genderchampions.com/news/igc-trade-impact-group-prepares-declaration-on-trade-gender>>.

9 Trade in Services Agreement, (not yet signed), online: <www.international.gc.ca/trade-agreements-accords-commerciaux/topics-domaines/services/tisa-ac.aspx?lang=eng>.

10 WTO, Working Party on Domestic Regulation, *Communication from Albania, Argentina, Canada, Chile, Colombia, the European Union, Iceland, Liechtenstein, the Republic of Moldova, Montenegro, Pakistan, Panama, and Uruguay*, JOB/SERV/258/Rev.4.

11 International Centre for Trade and Sustainable Development, "The gender chapters in trade agreements: A true revolution?", online: <www.ictsd.org/opinion/the-gender-chapters-in-trade-agreements-a-true-revolution>.

12 Government of Canada, *Equality and Growth: A Strong Middle Class*, online: <www.budget.gc.ca/2018/home-accueil-en.html>.

13 Government of Canada, *Budget 2018's Gender Results Framework*, online: <www.budget.gc.ca/2018/docs/plan/chap-05-en.html>.

14 Joanna Smith, "Five things aimed at increasing gender equality in the 2018 budget", *Financial Post* (27 February 2018), online: <<http://business.financialpost.com/pmn/business-pmn/five-things-aimed-at-increasing-gender-equality-in-the-2018-budget>>.

gender-disaggregated data and methodology to conduct gender-based assessments in the context of FTAs.

Others are taking Canada's lead. On March 13, 2018, members of European Parliament (MEPs) voted on the inclusion of a specific gender chapter in all future EU trade and investment agreements, resulting in 512 votes in favour, 107 against and 68 abstentions.¹⁵ The MEPs want future trade deals to promote international commitments on women's rights, gender equality, gender mainstreaming and the empowerment of women, based on international standards such as the United Nations' Beijing Platform for Action¹⁶ and the Sustainable Development Goals.¹⁷ They also called for binding and enforceable measures to combat exploitation and improve working and living conditions for women in export-oriented industries.

Canada is on the cutting edge of a nascent, necessary and long overdue effort to build more progressive trade policies. Playing with the whole team is important; when the nation does that, Canada can compete and win on the world stage now and for decades to come.

15 European Parliament, Press Release, "EU trade agreements and policy should help promote gender equality, say MEPs" (13 March 2018), online: <www.europarl.europa.eu/news/en/press-room/20180312IPR99506/eu-trade-agreements-and-policy-should-help-promote-gender-equality-say-meps>.

16 UN Women, "The United Nations Fourth World Conference on Women" (Conference delivered in Beijing, China, September 1995), online: <www.un.org/womenwatch/daw/beijing/platform/plat1.htm>.

17 UN, "Sustainable Development Goals", online: <<https://sustainabledevelopment.un.org/sdgs>>.



When She Trades, We All Benefit

Arancha González

Rhetoric and policy thinking around international trade and women's economic empowerment are changing. The UN Sustainable Development Goal¹ to ensure that women enjoy equal opportunities in economic life and equal rights to economic resources represents a well-intentioned step toward empowering women economically. Awareness is growing that international markets can expand economic opportunities for women, but concerted action is required to make the most of this potential.

Evidence of this progress can be seen in the Group of Twenty (G20) 2017 pledge to cut gender gaps in skills and labour force participation and its reaffirmation of women's economic empowerment.² The progress is ongoing; increasingly, free trade agreements are including gender chapters, and the vast majority of World Trade Organization (WTO) members have endorsed

the Declaration on Trade and Women's Economic Empowerment.³

As with most things in life, the devil is in the details. When it comes to international trade, an important detail is that micro, small and medium enterprises (MSMEs) make up more than 95 percent of the firms in any country and generate about 70 percent of employment worldwide.⁴

MSMEs also matter a lot for women. Across 99 developing countries, 36 percent of MSMEs are partially or entirely owned by women.⁵ However, women-owned MSMEs are less present in the "high economic impact" sectors of construction, transportation, warehousing, manufacturing and wholesale trade. In fact, in some developed

1 UN Women, "SDG 5: Achieve gender equality and empower all women and girls", online: <www.unwomen.org/en/news/infocus/women-and-the-sdgs/sdg-5-genderequality>.

2 G20, G20 Leaders' Declaration: Shaping an interconnected world, online: <www.oecd.org/els/health-systems/G20-leaders-declaration.pdf>.

3 WTO, Joint Declaration on Trade and Women's Economic Empowerment on the Occasion of the WTO Ministerial Conference in Buenos Aires in December 2017, online: <www.wto.org/english/thewto_e/minist_e/mc11_e/genderdeclarationmc11_e.pdf>.

4 Organisation for Economic Co-operation and Development (OECD), *Small and Medium-sized Enterprises: Local Strength, Global Reach* (Washington, DC: OECD, 2000), online: <www.oecd.org/cfe/leed/1918307.pdf>.

5 International Finance Corporation, *Strengthening Access to Finance for Women-Owned SMEs in Developing Countries* (Washington, DC: International Finance Corporation, 2011), online: <www.ifc.org/wps/wcm/connect/a4774a004a3f66539f0f9f8969adcc27/G20_Women_Report.pdf?MOD=AJPERES>.

economies, the share of MSMEs owned by women ranges from three percent to 18 percent in these more profitable sectors.⁶ And in international trade, only one in five exporting companies is owned by women.⁷

Does it matter? Yes, because firms that export are more competitive, and by exporting, they become even more competitive. This results in better salaries, better working conditions and greater contribution to domestic growth.

Should we be concerned? Yes, because the underrepresentation of women in international trade is not the result of personal choice. In fact, it's mostly the outcome of gender inequalities and gender-specific constraints that adversely affect women in trade.

Women entrepreneurs seeking to do business abroad often find themselves at a double disadvantage. They face the same obstacles as their domestically focused counterparts, such as unequal access to banking, finance, land and support networks. But they also face unique challenges associated with cross-border trade. Their companies tend to be smaller — not least because women dedicate more time to non-remunerated family-related activities. Border costs and delays weigh more heavily on small companies than on larger competitors. Evidence from surveys by the International Trade Centre (ITC) shows that women frequently encounter gender-based discrimination when obtaining trade-related paperwork.⁸

Today, almost one billion women are unable to fully participate in the economy.⁹ These are women, mostly from developing countries, who will be of working age by 2020, but still lack the required education or training to contribute to their national economy. Many women simply cannot work because of financial, regulatory, familial, logistical or legal constraints. Around 90 percent of the 173 countries examined by the World Bank have at least one law discriminating against women's participation in the economy.¹⁰ When women are not full participants in the economy, they cannot fully benefit from international trade.

Gender-disaggregated data would contribute to a better understanding of women-owned MSMEs and the sectors in which they are prevalent. That understanding could feed into trade policies that ensure equal opportunities and better

identify — and remove — barriers to women's participation in trade. The ITC's She Trades initiative is working toward that goal by addressing the specific constraints facing women who want to break into export markets, starting with solid gender-disaggregated data.¹¹

The Declaration on Trade and Women's Economic Empowerment was the start of a process. Over the next two years, countries, civil society, business and academia will gather at the WTO for a series of seminars covering gender-based analysis of trade policy, women entrepreneurs' participation in public procurement and international value chains, financial inclusion of women, women in trade agreements and bridging the gender-based digital divide.

Participants will exchange information about what has worked — and what has not — in their attempts to encourage women's participation in the economy. They will also seek to ensure that Aid for Trade¹² pays better attention to its focus and impact on women. Along with these seminars, experts will publish a series of papers on these and other issues, to be compiled in a guide ahead of the twelfth WTO Ministerial Conference in 2019.

Although this is only a modest first step, the declaration represents an important milestone in the WTO's history. A large proportion of WTO members and observers coalesced around a set of actions to advance women's empowerment and agreed to use the WTO as a platform to explore them. This is part of a much-needed larger agenda for the WTO that would help members shape their trade policies in light of broader socio-economic goals. Governments that have not yet endorsed the declaration are encouraged to join the more than 120 WTO members and observers who have signalled their willingness to build the evidence base for more inclusive trade.¹³

While the potential gains are clear, the level of progress toward women's economic empowerment remains hugely uneven across jurisdictions. Collectively, there is a long way to go in leveraging the full benefits of trade policies for women and men alike.

6 World Bank, "Bringing Down Legal Barriers to Women's Economic Empowerment in Partnership with the World Bank Group", online: <www.worldbank.org/en/events/2017/01/27/bringing-down-legal-barriers-to-womens-economic-empowerment-in-partnership-with-the-world-bank-group>.

7 Joel Richards, "She Trades initiative aims to connect women-owned companies globally", CTGN America [26 December 2017], online: <<https://america.ctgn.com/2017/12/26/she-trades-initiative-aims-to-connect-women-owned-companies-globally>>.

8 ITC, "Closing the Small-business and Gender Gap to Make Trade More Inclusive" in WTO & OECD, *Aid for Trade at a Glance 2017: Promoting Trade, Inclusiveness and Connectivity for Sustainable Development* (Geneva, Switzerland: WTO, 2017), online: <www.wto.org/english/res_e/booksp_e/aid4trade17_chap8_e.pdf>.

9 DeAnne Aguirre et al, *Empowering the Third Billion: Women and the world of work in 2012* (New York, NY: Strategy&, 2012) at 9, online: <www.strategyand.pwc.com/media/file/Strategyand_Empowering-the-Third-Billion_Full-Report.pdf>.

10 World Bank, *supra* note 6.

11 ITC, "She Trades", online: <<https://shetrades.com>>.

12 WTO, "Aid for Trade", online: <www.wto.org/english/iratop_e/devel_e/a4t_e/aid4trade_e.htm>.

13 International Gender Champions, "Impact: Trade", online: <<https://genderchampions.com/impact/trade>>.



Gender Impact of Regional Integration in the East African Community

Nursel Aydinler-Avsar

Trade policies are not gender neutral — far from it. Trade takes place in the context of economic conditions and institutions that tend to be shaped by gender values, and this has two implications. On the one hand, trade leads to outcomes that vary by gender in the different economic roles men and women play as workers, producers and consumers. On the other hand, gender inequalities tend to affect export competitiveness and trade performance. For example, asymmetric distribution of productive resources, limited access to information and markets, inadequate productive capacity and weak infrastructure all lead to different opportunities for men and women.

The gender impact of trade policies is context-specific and needs to be analyzed on a case-by-case basis. This intriguing specificity is illustrated by a case study titled *East African Community Regional Integration: Trade and Gender Implications* that was carried out by the United Nations Conference on Trade and Development

(UNCTAD).¹ The East African Community (EAC) was formed in 2000 by Kenya, Tanzania and Uganda. Rwanda and Burundi joined the treaty in 2007 and South Sudan joined in 2016. The two cornerstones of the regional integration process — a customs union and common market — both came into full effect in 2010.

Employment Patterns

Sectoral composition of economic activity has changed significantly during the EAC’s regional integration process, with a shift away from agriculture and toward services and, to a lesser extent, industry. The shift in employment structure was relatively weak; agriculture remains the dominant sector of employment in the EAC, especially for women. Women’s employment in services mainly increased in low-skilled services such as trade and tourism, while men accessed more positions in high-skilled services such as transport and communication. In the EAC, women are predominantly

¹ UNCTAD, *East African Community Regional Integration: Trade and Gender Implications*, UNCTAD/DITC/2017/2, (New York, NY: United Nations, 2018), online: <http://unctad.org/en/PublicationsLibrary/ditc2017d2_en.pdf>.

employed as own-account workers and contributing family workers — the two forms of vulnerable employment — as opposed to men, for whom wage-salary work is more common. Women also account for a higher share of informal employment.

Supply-side Constraints

Women in the EAC face important supply-side constraints while participating in the economy. Indeed, despite significant progress in adult literacy and primary education, access to secondary and tertiary education continues to be limited, especially for women. Limited access to land and credit also constrains women's successful participation in the economy, particularly as producers. Despite the introduction of equal property rights for men and women, there is still a significant gender gap in access to land. Women have less access to formal sources of credit than men. Women also shoulder a higher share of unpaid care work than men. This, in turn, limits the number of hours they can devote to paid work, constrains their mobility and limits their access to market resources and information.

Impact of Tariff Liberalization on Women's Employment in Manufacturing

According to the empirical analysis, overall EAC trade integration led to an increase in women's employment share in manufacturing firms in Kenya, Tanzania and Uganda, while women workers in Burundi were negatively affected. The case of Rwanda could not be analyzed due to data constraints.

These employment effects were realized only for production workers — production tasks mostly coincide with blue-collar jobs, while non-production tasks refer to activities related to management, sales or administrative tasks.

Similar effects were observed from tariff liberalization in export markets outside the EAC, but the impact was much smaller. The positive impact might be because technological upgrading, induced by trade liberalization, enables women to have more access to jobs previously dominated by men. It should be highlighted that the positive effects observed only for production workers might also be indicative of cost-cutting strategies by exporting firms. Especially given the gender wage gap, firms might be hiring relatively more women production workers to reduce unit costs. It is, therefore, critical to enforce labour protection laws. Finally, firms that are export-oriented and have

international certification tend to employ more women than others.

Mainstreaming Gender in Trade Policy

A number of policy instruments emerge as priority areas to support gender mainstreaming in trade policy in the EAC. The same instruments may prove useful in other regional settings as well, given the similar constraints and issues faced by women under trade reforms. There is a need for both supply-side and demand-side policies to ease the transfer of labour from agriculture to expanding sectors.

- **On the supply side:** Besides expanding formal higher education, training and skill development programs targeting women need to be expanded in higher value-added sectors. Moreover, credit and entrepreneurship programs and programs to support gender-equitable land tenure are needed to improve women's access to key resources. Increased availability of childcare facilities is also critical to reduce women's unpaid care burden.
- **On the demand side:** Policies such as targeted input subsidies, technological investments, and extension and advisory services could be useful tools for expanding production in higher value-added sectors. Implementing incentive programs that encourage more domestic firms to open up to international markets and obtain international certification could also boost female employment in manufacturing.
- **Building capacity:** Gender-related capacity-building mechanisms (such as entrepreneurship and business training, skill development, access to finance and so forth) are critical for the successful participation of women in the economy under trade reforms. Some EAC members have already introduced such programs; however, they need to be developed further to extend their reach and impact, and they should be initiated in cases where they do not exist.
- **Market access and value chains:** Women's associations and cooperatives should be supported to enhance women's access to market information and opportunities. Gender-based value-chain analyses need to be conducted to identify areas for intervention. Development assistance programs could also be designed so that they reach small entrepreneurs, many of whom are women, in value chains.

EAC members introduced various gender frameworks, and some EAC members introduced gender considerations into their trade policy. More recently, the East African Legislative Assembly passed the EAC Gender Equality and Development Bill² on March 8, 2017, with the aim of harmonizing existing gender frameworks across members. EAC members may consider this bill as an opportunity to develop a region-wide approach to mainstreaming gender in trade policy. The EAC could play a leading role in uniform and improved collection of gender-disaggregated data and gender-sensitive implementation of the UN Sustainable Development Goals.³ The EAC could also introduce regional funds as a leverage effect, build platforms for peer learning and monitor actions taken by members toward gender equality.

Finally, overcoming gender norms and stereotypes that impede or limit women's successful participation in the economy under trade reforms requires long-term advocacy campaigns. The EAC could play a critical role by efficiently promoting such campaigns among its members.

2 EAC Gender Equality and Development Bill, 8 March 2017, online: <www.eassi.org/home/files/mydocs/Gender%20Bill%20Brochure%20%20print%20ed%20n.pdf>.

3 UN, "Sustainable Development Goals", online: <<https://sustainabledevelopment.un.org/sdgs>>.



Mainstreaming Gender in the Face of Pervasive Inequality

Chiara Piovani

The Southern African Development Community (SADC) was established in 1992 to promote political and economic integration among its member countries.¹ It signalled a new Africa, finally freed from apartheid and colonialism. As of 2018, the SADC is composed of 16 countries, characterized by vastly different levels of economic development and economic structure: Angola, Botswana, Comoro Islands, Democratic Republic of Congo, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, United Republic of Tanzania, Zambia and Zimbabwe.² With a combined population of more than 320 million people, the SADC is one of the most populous regions in Africa.

In 2008, the SADC met the requirements for intra-regional trade liberalization, leading to the formation of a free trade area. Other integration milestones — a customs union, common market, economic union and single currency — are behind schedule and remain to be achieved. One of the economic objectives behind

the formation of the SADC was the desire to use institutional cooperation to help diversify economies and build an industrial base. Most SADC countries, however, still depend on the export of primary commodities and have been experiencing an economic decline following the latest global economic crisis. Poverty and inequality remain urgent socio-economic issues in the region and constitute key constraints for progress in human development.

With regard to inequality, gender disparities remain pervasive in the region. In the SADC, on average, women are overrepresented in informal cross-border trade (ICBT), tend to hold vulnerable and low-paying jobs, have less access to education than men and perform the lion's share of unpaid labour, including housework and caregiving.³

1 SADC, online: <www.sadc.int>.

2 SADC, "Member States", online: <www.sadc.int/member-states>.

3 Thembela Miranda Njenga, "Women working in the informal economy: Challenges and Policy Considerations", *Open Society Initiative for Southern Africa* (18 April 2015), online: <www.osisa.org/buwa/economic-justice/regional/women-working-informal-economy-challenges-and-policy-considerations>.

To address the multiple dimensions of gender inequality, since the early stages of the integration process, the SADC has shown a strong commitment toward mainstreaming gender in the process of community building, which is, in fact, enshrined in the 1992 SADC Treaty.⁴ In 2008, the SADC countries signed the SADC Protocol on Gender and Development,⁵ which was updated in 2015. Based on the protocol, gender equality is a human right, and any form of discrimination needs to be overcome with gender-responsive legal and policy measures. Since 2009, the SADC Gender Protocol Barometer has been tracking annually the progress made by member countries in achieving the targets of the protocol.⁶

The SADC member states have either gender ministries or gender departments located within other ministries; gender focal points have been established in most national ministries to ensure the effective adoption and implementation of gender mainstreaming. In addition, all SADC countries have national gender machineries to supervise and coordinate government measures in response to commitments on gender equality and women's empowerment.⁷

Despite these important achievements, there are major flaws in the actual implementation of gender mainstreaming in the SADC. Gender analysis knowledge and skills remain limited, and the collection and use of gender-disaggregated statistics are not yet sufficient. With regard to trade, the SADC's gender policy mandates the inclusion of gender targets in trade policies, but the SADC's trade policy remains only marginally gender mainstreamed.

In the economy, the agricultural sector continues to be the primary source of employment for women; over the process of economic integration, however, an increasing number of women have been employed in services. The proportion of women in industry has been on a slightly declining path, consistent with the declining contribution of the sector to SADC economies and the notion of premature "deindustrialization" for the SADC, as for many other African countries. In agriculture,

a "gender agricultural gap" continues to be observed due to gender biases rooted in customary law and cultural norms, which limit women's access to land, credit, training and markets.⁸ Because of limited access to formal markets, ICBT often becomes one of the only options for women to generate income and food security.

According to UN Women, women constitute about 70 percent of the informal cross-border traders in the SADC region.⁹ In manufacturing and services, women tend to hold low- and medium-skilled positions with little opportunity for promotion. In addition, even when women work in the same occupation as men, they have fewer responsibilities and receive lower compensation.

Based on an analysis by the United Nations Conference on Trade and Development (forthcoming), trade liberalization has led to an increase in wage employment opportunities for women. Typically, however, these continue to be low-paying positions; women, in fact, continue to be a cheap source of labour for firms competing in global markets. As a result, gender-based job segregation and the gender wage gap continue to be observed.

To alleviate the economic constraints and traditional discriminatory norms that women face, the SADC countries need to adopt complementary policies that effectively promote gender equality and women's empowerment. To further this objective, the institutions in charge of gender equality should be provided with greater financial resources and be more actively involved in decision making.

The SADC also needs to invest more in capacity building in gender analysis, budgeting and planning to ensure policy makers have the necessary skills to enforce gender mainstreaming. Given the dominance of women in ICBT, trade mechanisms that support informal traders (for example, tariff bands and simplified customs and immigration procedures), as well as proper dissemination of information about customs procedures, are key to supporting women's economic empowerment.

Well-designed vocational training, enforcement of protection against gender-based discrimination and support for non-commercial financing (for example,

4 *Treaty of the Southern African Development Community (SADC)*, 17 August 1992, [entered into force 30 September 1993], online: <www.sadc.int/files/5314/4559/5701/Consolidated_Text_of_the_SADC_Treaty_-_scanned_21_October_2015.pdf>.

5 *SADC Protocol on Gender and Development*, 17 August 2008, [entered into force 22 February 2013], online: <www.sadc.int/files/8713/5292/8364/Protocol_on_Gender_and_Development_2008.pdf>.

6 Southern Africa Gender Protocol Alliance, *SADC Gender Protocol Barometer 2017* (Johannesburg, South Africa: Southern Africa Gender Protocol Alliance, 2017) [SADC Barometer], online: <<http://genderlinks.org.za/what-we-do/sadc-gender-protocol/sadc-protocol-barometer/>>.

7 SADC & SARD, *Gender and Development Monitor 2016* (Gaborone, Botswana: SADC & SARD, 2016), online: <www.nepadsanbio.org/sites/default/files/2017-01/SADC_Gender_and_Development_Monitor_2016_Eng.pdf>.

8 Henry Manyire & Ann Dela Apekey, *Mainstreaming gender equality in African agricultural research and development: A study of constraints and opportunities* (Accra, Ghana: Forum for Agricultural Research in Africa, 2013), online: <[www.fao.org/docs/eims/upload/313434/Gender_equality_report_Ver05_lowres%20\(2\).pdf](http://www.fao.org/docs/eims/upload/313434/Gender_equality_report_Ver05_lowres%20(2).pdf)>.

9 UN Women, *Unleashing the Potential of Women Informal Cross Border Traders to Transform Intra-African Trade*, online: <www.unwomen.org/-/media/headquarters/media/publications/en/factsheetafricanwomentradersen.pdf?la=en&vs=944>.

solidarity finance) would help women become more competitive. With regard to trade, the SADC countries need to effectively engender their trade programs, as required by the SADC protocol. The protocol, in fact, asks member states to “adopt policies and enact laws which ensure equal access, benefit and opportunities for women and men in trade and entrepreneurship,” and to “review their national trade and entrepreneurship policies, to make them gender responsive.”¹⁰

In addition to government-based measures, education and awareness programs are critical to help reduce violence against women and support women’s bargaining power within the household and, more broadly, in society.

As of now, a discrepancy remains in the SADC region between strong gender commitments and their rather weak implementation.

¹⁰ SADC Barometer, *supra* note 6.



When It Comes to Gender Analysis, Modern Trade Agreements Are Lacking

Diane Elson and Marzia Fontana

Modern trade agreements cover a diverse range of policy areas. Gender impact is to be considered in relation to each of these policy areas.

Most existing multilateral and bilateral trade agreements are not just about trade in goods, but extend to services such as health care, education, water and trade-related areas, such as foreign investment, government procurement and intellectual property rights. One rule routinely included in recent agreements concerns investor-state dispute settlement (ISDS) provisions, which allow businesses to take legal action against governments if they are perceived to have acted in ways that undermine businesses' profits. Increasingly, services traditionally provided by the public sector face competition from foreign companies.

These issues are of great relevance for the promotion of gender equality; liberalization of trade in services and restrictions on governments' ability to ensure adequate public resources for all citizens may seriously undermine the full realization of women's economic rights.

Trade policy's impact on women is far-reaching and is not always immediately apparent.

In some instances, concerns have been raised about the effect that new trade rules could have on food safety and the environment, as seen in negotiations of the Comprehensive Economic and Trade Agreement¹ and the Transatlantic Trade and Investment Partnership.² Trade-related changes in the regulatory environment are likely to affect the quality and security of employment differently for various groups of workers and producers. Most often, small-scale producers and low-skilled workers bear the brunt. While it's important to better understand the gender dynamics associated with all these aspects, these dimensions do not appear to be considered in current gender impact assessments of trade deals in either

1 Comprehensive Economic and Trade Agreement, 30 October 2016 (entered into force 21 September 2017), online: <www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/ceta-aecg/index.aspx?lang=eng>.

2 European Commission, "Transatlantic Trade and Investment Partnership", online: <<http://ec.europa.eu/trade/policy/in-focus/ttip/>>.

developed or developing countries.³

Many resources have been developed since the early 2000s to assess the full range of gender-distributional effects of trade.⁴ These studies and frameworks spell out in detail the main channels through which changes in the nature and structure of trade in a country (resulting from domestic liberalization policies, international agreements or both) affect various dimensions of gender inequality. They stress that interaction mechanisms are complex and contradictory, involving not only employment effects, but also consumption and public provision effects. These frameworks enable identification of key questions to be asked, ideally, at both the stage of generating relevant evidence to inform trade negotiations and, later, at the stage of promoting interventions on the ground to enable successful implementation and monitoring.

Unfortunately, to date, none of these frameworks appear to be systematically used in official impact assessments supporting trade negotiations. For example, as Elina Viilup carefully documented with regard to the sustainable impact assessments (SIAs), promoted by the European Commission over the past decade, when gender analysis is present in SIAs, it tends to be limited to the mention of possible employment effects in isolation.⁵ Generally, such gender analysis is related to specific sectors (for example, sectors traditionally dominated by women such as apparel and textiles) or specific groups of women (for example, women involved in informal cross-border trade).

The problem? Gender implications of trade and investment agreements are wider and involve multiple dimensions. This complexity needs to be considered when evaluating net outcomes for different groups of women and men.

More research and regular collection of data are needed, particularly on the gender and distributional effects of services liberalization. Services as varied as water, health care and accounting began to be liberalized under the General Agreement on Trade in Services, which came into effect in 1995.⁶ Today,

work is being done to further liberalize services under new regional or plurilateral trade agreements such as the Trade in Services Agreement.⁷ These agreements seek to liberalize all measures affecting trade in services, including government laws, regulatory and administrative instruments, food safety rules and technology transfer requirements.

A rigorous, gender-aware approach would need to consider both employment and public provision effects — with attention to both quantity and quality. Further, the approach should consider gender distribution of employment and income, but also the gender distribution of unpaid domestic work and caregiving.

Scattered evidence is available on the gendered employment effects of expansion of select sectors, including tourism, information and communication. Other gendered effects related to possible changes in the quality or equity of access to social services are not systematically studied.

Expansion of services, in particular care-related services, may open opportunities for women's employment and improve the extent of provision for the benefit of both women and men.⁸ Without appropriate public resources and government commitment, however, there is a high risk that deregulation of services prompted by trade agreements may lead to what Diane Elson and Nilufer Cagatay call "commodification or marketization bias."⁹ In short, this term describes the replacement of state-based entitlements by market-based, individualized entitlements for those who can afford them, and poverty and overwork for those who cannot. Changes in health services for the elderly are likely to affect women more than men, especially in high-income countries, because women tend to live longer but be poorer than men, and they tend to provide care for other family members even in their old age. In low-income developing countries, the privatization of water provision could have negative gender implications since, overwhelmingly, women and girls collect and treat water when access to drinkable water on household premises is limited and/or unaffordable.

There is an urgent need for these areas to be better documented and for findings from new research to be regularly used to inform trade agreements and their implementation.

3 European Parliament, Directorate-General for Internal Policies, *Gender Equality in Trade Agreements* (Brussels, Belgium: European Parliament, 2016), online: <[www.europarl.europa.eu/RegData/etudes/STUD/2016/571388/IPOL_STU\(2016\)571388_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2016/571388/IPOL_STU(2016)571388_EN.pdf)>.

4 Catherine Atthill et al, *Gender and Trade Action Guide: A Training Resource* (London, UK: Commonwealth Secretariat, 2007), online: <www.oecd-ilibrary.org/commonwealth/trade/gender-and-trade-action-guide_9781848598935-en>.

5 Elina Viilup, *The EU's Trade Policy: from gender-blind to gender-sensitive?* (Brussels, Belgium: European Parliament, 2015), online: <[www.europarl.europa.eu/RegData/etudes/IDAN/2015/549058/EXPO_IDA\(2015\)549058_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN/2015/549058/EXPO_IDA(2015)549058_EN.pdf)>.

6 *General Agreement on Trade in Services*, 15 April 1994, 1869 UNTS 183 (entered into force 1 January 1995), online: <www.wto.org/english/docs_e/legal_e/26-gats.pdf>.

7 European Commission, "Trade in Services Agreement", online: <<http://ec.europa.eu/trade/policy/in-focus/tisa/>>.

8 UK Women's Budget Group, *Investing in the Care Economy: A gender analysis of employment stimulus in seven OECD countries* (Brussels, Belgium: International Trade Union Confederation, 2016), online: <www.ituc-csi.org/IMG/pdf/care_economy_en.pdf>.

9 Diane Elson & Nilufer Cagatay, "The Social Content of Macroeconomic Policies" (2000) 28:7 *World Development* 1347–64, online: <<https://pdfs.semanticscholar.org/1d3b/a7229bfb040ab3b71c934ec6a71981ea0db3.pdf>>.



Looking to Regional Trade Agreements for Lessons on Gender Equality

Rohini Acharya

At the 2017 World Trade Organization (WTO) Ministerial Conference in Buenos Aires, 118 WTO members and observers agreed to support the Joint Declaration on Trade and Women's Economic Empowerment.¹ The declaration seeks to increase the gender responsiveness of trade and development policies by sharing policy experience to encourage the participation of women in trade, and by sharing best practices to analyze and monitor such participation. Actions taken to implement the declaration will also contribute to the UN Sustainable Development Goals (SDGs),² in particular, SDG 5 on achieving gender equality through the empowerment of women and girls.³

To some extent, the goals of the declaration — cooperation and sharing of best practices to encourage women's participation in trade — reflect those already found in

regional trade agreements (RTAs), which have often been the precursors to global trade rules.

The European Union, Canada, Chile and the United States aren't strangers to gender-considerate trade — of all the WTO members, they include the most of such provisions. The provisions range from cooperation on trade-related gender issues to efforts to improve women's access to education, trade and entrepreneurial opportunities, as well as commitments to prevent discrimination in the workplace.

Most RTAs that have provisions on gender agree to cooperate on such matters, and in most cases, it is left up to the parties to decide on the most appropriate forms of cooperation. The approach to cooperation may also be different: the European Union tends to focus on education and training as a means to reduce gender discrimination, while the United States and Canada favour using cooperation to eliminate discrimination in employment. The European Union has also, in some of its economic partnership agreements, created regional funds to provide assistance, *inter alia*, to promote entrepreneurship among women.

1 WTO, *Joint Declaration on Trade and Women's Economic Empowerment on the Occasion of the WTO Ministerial Conference in Buenos Aires in December 2017*, online: <www.wto.org/english/thewto_e/minist_e/mc11_e/genderdeclarationmc11_e.pdf>.

2 UN, "Sustainable Development Goals", online: <<https://sustainabledevelopment.un.org/sdgs>>.

3 UN Women, "SDG 5: Achieve gender equality and empower all women and girls", online: <www.unwomen.org/en/news/in-focus/women-and-the-sdgs/sdg-5-gender-equality>.

While such references to cooperative activities can be traced back to RTAs that entered into force in the mid-1990s, with gender being part of a number of issues on which the parties agreed to cooperate, more recently, there has been a shift toward more substantive sections or chapters specifically acknowledging the role of women in international trade. The recently agreed Comprehensive and Progressive Agreement for Trans-Pacific Partnership⁴ (CPTPP, formerly the Trans-Pacific Partnership Agreement) specifically acknowledges the role played by women in economic growth under its chapter on development. The parties agree to cooperate to enhance the ability of women, including workers and business owners, to fully access and benefit from the opportunities created by the CPTPP.

The agreement also provides examples of such cooperative activities and includes training and exchange of information on programs that help women build skills and enhance access to markets, technology and financing, as well as through women's networks and best practices on workplace flexibility.

More substantive provisions on trade and gender have also been introduced in the recent amendment to the Canada-Chile Free Trade Agreement⁵ (FTA) and the agreement between Chile and Uruguay;⁶ both have been signed but are not yet in force. The amendment to the Canada-Chile FTA shows a substantive change to the original agreement, which has been in force since July 5, 1997. While the original agreement focused on cooperation between the parties to achieve equality between men and women in the workplace, including equal pay, the amended Appendix II goes significantly further.⁷

Both agreements involving Chile acknowledge the key role that gender-responsive policies can play in socio-economic development and the importance of promoting gender equality policies and practices. The parties reaffirm their commitments to implement their international obligations, and the section on cooperation is much more extensive than in previous agreements. The agreements also go further than other RTAs in establishing an implementation vehicle for

these policies, namely a trade and gender committee. Like other committees established by RTAs, its role includes reviewing implementation of the chapter and reporting to the commission established by the agreement. Finally, while the chapter is not subject to dispute resolution under the dispute settlement mechanism of the agreement, parties can resolve disagreements of interpretation and application through consultations.

While it is useful to understand the evolution of provisions relating to gender in RTAs, one should not lose sight of other provisions that have implications for women, including those that impact small to medium-sized enterprises (SMEs), trade facilitation and sectors in which women are active.

According to some estimates, women entrepreneurs account for between one-quarter and one-third of global businesses, with a large share being SMEs.⁸ References to SMEs in RTAs mainly include cooperation between the parties to facilitate better access to export and government procurement markets, investment and intellectual property rights — all in an effort to improve linkages with global value chains.

However, even though RTAs try to facilitate trade and investment by SMEs, market access remains an important issue for activities in which women play a significant role. Textiles and clothing industries, for example, have seen less success in using RTAs to reduce barriers to trade.

Modern RTAs are also moving forward in other areas that have implications for women involved in various sectors of the economy. In addition, RTAs between neighbouring countries may be particularly accessible for women. With their knowledge of regional markets, language and culture, women may find it easier to tailor their products for consumer needs regionally. As WTO members prepare to implement the Joint Declaration on Trade and Women's Economic Empowerment, they should look to RTAs that point the way forward on issues relating to gender in international trade.

Author's Note

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4 Comprehensive and Progressive Agreement for Trans-Pacific Partnership, 8 March 2018, (not yet entered into force), online: <<https://sustainabledevelopment.un.org/?menu=1300>>.

5 Canada-Chile Free Trade Agreement, 5 December 1996, (entered into force 5 July 1997) [Canada-Chile FTA], online: <<http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/chile-chili/fta-ale/index.aspx?lang=eng>>.

6 Acuerdo de Libre Comercio entre la República de Chile y la República Oriental del Uruguay, 4 October 2016, (not yet entered into force), online: <<http://investmentpolicyhub.unctad.org/Download/TreatyFile/5408>>.

7 Canada-Chile FTA, *supra* note 5, Appendix II, online: <http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/chile-chili/fta-ale/2017_Amend_Modif-App2-Chap-N.aspx?lang=eng>.

8 International Labour Office, *Small and medium-sized enterprises and decent and productive employment creation* (Geneva, Switzerland: International Labour Office, 2015), online: <www.ilo.org/wcmsp5/groups/public/-ed_norm/-relconf/documents/meetingdocument/wcms_358294.pdf>.



Declaration Signatories Must Be Held Accountable

Patricia Goff

The World Trade Organization (WTO) has turned its attention in earnest to gender equality. At the 2017 WTO ministerial meeting in Buenos Aires, 118 members adopted the Declaration on Trade and Women's Economic Empowerment,¹ which aims to make trade and development policies more gender responsive. Their commitment is based both on principle and on evidence of the links between gender equality, sustainable economic growth and poverty reduction. While this is an exciting step, the declaration is likely to be ineffective unless its signatories are held to account.

Ensuring that sovereign governments implement their pledge requires attention to both process and substance. In particular, the declaration's impact will depend on, first, an appropriate accountability mechanism and, second, tangible action in trade policy.

The drafters should be applauded for attempting to move beyond largely aspirational and hortatory

language to consider how to foster signatories' compliance. Specifically, the declaration advocates for "voluntary reporting during the WTO trade policy review process,"² which suggests use of the WTO's Trade Policy Review Mechanism (TPRM). This is promising, but not without challenge.

The TPRM assumes that transparency — exposing policy choices to public scrutiny — has a disciplining effect, largely through "naming and shaming" strategies. The TPRM occupies a middle ground between the purely voluntary WTO notification process and the more muscular retaliatory tools of the Dispute Settlement Body. As Craig VanGrasstek points out, the WTO Secretariat's scrutiny of member policy as part of the TPRM has become more pronounced in recent years.³ Nonetheless, it stops short of "prescription or direct criticism," making this process more palatable to members where gender is concerned.

¹ WTO, *Joint Declaration on Trade and Women's Economic Empowerment on the Occasion of the WTO Ministerial Conference in Buenos Aires in December 2017*, online: <www.wto.org/english/thewto_e/minist_e/mc11_e/genderdeclarationmc11_e.pdf>.

² *Ibid.*

³ Craig VanGrasstek, *The History and Future of the World Trade Organization* (Geneva, Switzerland: WTO, 2013), online: <www.wto.org/english/res_e/booksp_e/historywto_e.pdf>.

That said, TPRM reviews are infrequent. The four largest traders are reviewed every two years, the next 16 largest every four years and the remaining WTO members only every six years. While this timing is sensible to monitor members' trade policies, it lacks the urgency that supporters of gender equality require.

Even if members do embrace TPRM as the appropriate reporting mechanism, three challenges remain in giving effect to the declaration's ambitions. First, what counts as a gender-responsive trade policy is not clear, partly because women engage with the economy in a variety of roles, including as consumers and as participants in the labour market. For instance, women are factory workers, agricultural labourers, business owners, entrepreneurs and everything in between. A given trade policy can have a simultaneous, differential impact on women across these categories.

Simple tariff removal, for example, can help (women) consumers by making an imported product less expensive. At the same time, it can threaten the competitiveness of the domestic, import-competing industry and, thus, (women) workers' jobs. From another perspective, targeted policies that promote female entrepreneurs are unlikely to help women in manufacturing jobs or precarious work. The Buenos Aires declaration exists precisely to make trade more inclusive, but short of wholesale change to some prevailing trade policies, can women in all corners of the economy benefit? Will the declaration have succeeded if some women are helped, but not others? Which of women's many roles vis-à-vis trade will be prioritized?

These questions cannot go unanswered.

A second challenge is how to measure trade policy's contribution to gender equality. The notion of women's empowerment is a worthy objective, but it is unclear which specific steps a government could take to translate the concept into real gains for women. Organizations such as the United Nations Conference on Trade and Development, the United Nations, the European Union and the World Bank have done extensive work on identifying key indicators of women's empowerment and devising gender impact assessment practices. These provide excellent starting points.

In the end, however, political will and ability will determine how much headway is made on the gender file. Member buy-in is essential to the legitimacy of the process of assessing trade policies through a gendered lens and implementing appropriate measures. And technical assistance is key to ensuring that all signatories have adequate capacity to follow through on their commitments.

The third challenge arises when we assess a particular trade policy through a gendered lens and find that it falls short. If a particular trade measure appears to affect women negatively in some way — but otherwise serves trade policy objectives or stakeholder interests — which goal will win out? To date, there aren't many examples of incurring an economic or political cost to achieve gender equality.

Mainstreaming gender into the work of the WTO is significant, but it may not be enough in a member-driven organization. Trade policy is ultimately made in national capitals. Producing gender-sensitive trade outcomes requires a change not only in global practices, but in domestic priorities and attitudes, implicating activist and citizen groups with the ear of member governments.



The Case for Developing a Model Chapter on Gender and Trade

Maria Panezi

Gender and trade had a good year in 2017. During the World Trade Organization (WTO) Ministerial Conference in Buenos Aires, 121 of 164 WTO member states and observers joined forces to conclude the Declaration on Trade and Women's Economic Empowerment.¹ Earlier that year, Canada and Chile amended their free trade agreement (FTA)² to include a stand-alone gender chapter. Similarly, Chile and Uruguay included gender measures in their 2016 FTA.³

As an explicit trade consideration, gender has been neglected for decades. These initiatives may spark the formation and expansion of a gender and trade framework in international trade.

To those excited about such initiatives, a word of caution: while progress is being made, steps must be taken to ensure the declaration and the two FTAs do not become isolated examples of gender sensitivity in trade. If implemented effectively and more countries adopt similar policies, the WTO declaration and the two FTAs could become the beginning of a trend in favour of gender inclusiveness in national and international trade policy that ensures equal treatment of women and men in trade and creates a gender-positive trade environment.

It's worth defining the phrase "gender-positive trade environment." Ideally, it's an environment in which women feel empowered to pursue the role of exporter and entrepreneur. It's an environment where women consider it natural to explore markets beyond their own country to sell their products. This type of trading environment also ensures that the national regulatory systems in the countries of origin and the countries of destination for women's products and services will be fully accessible, transparent and enabling.

¹ WTO, *Joint Declaration on Trade and Women's Economic Empowerment on the Occasion of the WTO Ministerial Conference in Buenos Aires in December 2017*, online: <www.wto.org/english/thewto_e/minist_e/mc11_e/genderdeclarationmc11_e.pdf>.

² *Canada-Chile Free Trade Agreement*, 5 December 1996, (entered into force 5 July 1997), online: <<http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/chile-chili/fta-ale/index.aspx?lang=eng>>.

³ *Acuerdo de Libre Comercio entre la República de Chile y la República Oriental del Uruguay*, 4 October 2016, (not yet entered into force), online: <<http://investmentpolicyhub.unctad.org/Download/TreatyFile/5408>>.

Ensuring full participation, equal treatment and sustainable involvement of women in local and larger enterprises remains, even today, a big challenge. The Chile-Uruguay and Canada-Chile FTAs are only small steps in the right direction, which need to proliferate throughout the globalized marketplace. One way to achieve that is for one or all three of the countries — Chile, Canada and Uruguay — to propose that an extended version of their chapters on gender and trade should act as a model for other nations to adopt. This chapter can serve as a gentle proposal — a nudge toward the other 121 WTO member states, or any other country that may not have joined in the declaration, but still values women's economic empowerment.

Both of the aforementioned FTA chapters are similar in language and structure, framing the gender chapter in socio-economic terms. Specifically, they depart from rights language, making the chapter more attractive, perhaps, to many countries that insist on the conventional view that “human rights and trade do not mix.”⁴ Beginning the text of the gender and trade chapters by emphasizing “sustainable socioeconomic development,” “inclusive economic growth” and “equitable opportunities” hints at unleashing the untapped potential in many economic sectors. This, for many countries, could mean changing the profile of a locally focused sector to be more open to trade, potentially claiming a better place for certain national products and services in export markets and enjoying a larger share of global markets.

The proliferation of such chapters in FTAs and other economic agreements would facilitate the collection of gender-specific trade and economic data. Moreover, multiple chapters linking different countries will allow for the development of a collective “gender lens,” a process of becoming aware of the impact of trade policies in sectors where women are most active or ones that are gender-imbalanced with limited female participation. Collecting data and acquiring a gender-conscious perspective are the two stages needed before drafting and adopting more inclusive trade policies.

At the same time, national implementation strategies cannot be limited to the establishment of committees, data collection, cooperation activities and consultations. A partial response to gender and trade concerns will not bridge the current large gap between men and women in international trade.⁵ In the national context, countries implementing these agreements must move beyond the

language of cooperation and determine the next steps, such as loan facilitation, educational programs and other policies that will lower entry barriers for women.

Skeptics might raise some objections on the model chapter proposal. Some may see it as simply an add-on, which pays lip service to gender issues, but does not solve any problems on the ground. The counter-argument to this is that it is better to include a chapter in new agreements that does little for women in trade than to have no gender lens whatsoever. Model laws and model agreements have been used as a softer mechanism, instead of treaties, to assist governments in areas where convergence in law would be beneficial, yet there exists little momentum to achieve consensus through a multilateral or other international agreement.

A prominent forum for developing model laws is the United Nations Commission on International Trade Law, which, for decades, has been using model laws to facilitate cross-border transactions and promote cooperation among countries in areas such as contract law and e-commerce, without the pressures of signature and ratification of international agreements. Elaborating on a model gender chapter with more provisions could allow for various versions suited to bilateral investment treaties, preferential trade agreements or other agreements that contain economic cooperation elements.

Before criticizing the idea of a model chapter as a neo-colonialist undertaking,⁶ it should be noted that the Global South has shown leadership in initiating a gender-sensitive approach to trade. Chile would be a great country to lead such an initiative, as the country is a front-runner in gender-aggregated data collection and is a partner in both the aforementioned FTAs. Canada should be a strong ally of an FTA network that supports gender and trade, since it would fall directly into the progressive trade agenda.⁷ In fact, proposing a model gender and trade chapter provides an excellent trade leadership opportunity for any of the 121 WTO member countries that signed the 2017 declaration in Argentina.

Given the strong support for the declaration and the emergence of a new trend toward including gender chapters in trade agreements, it is time to adopt a gender-positive trade agenda that prioritizes the sustainable economic empowerment of women. A model chapter, if adopted by more countries, can inspire many actors into gender-positive action and encourage the establishment of better national regulatory frameworks.

4 Eve Troeh, “In China talks, trade and human rights don’t mix”, *Marketplace* (23 July 2012), online: <www.marketplace.org/2012/07/23/world/china-talks-trade-and-human-rights-dont-mix>.

5 UNCTAD, “The New Way of Addressing Gender Equality Issues in Trade Agreements: Is It a True Revolution?” Policy Brief No 53, October 2017, online: <http://unctad.org/en/PublicationsLibrary/presspb2017d2_en.pdf>.

6 William Twining, “Diffusion of Law: A Global Perspective” (2006) 1:2 JCL 237.

7 Global Affairs Canada, News Release, “International Trade Minister to champion Canada’s progressive trade agenda at 11th WTO Ministerial Conference in Argentina” (8 December 2017), online: <www.canada.ca/en/global-affairs/news/2017/12/international_tradeministertochampioncanadasprogressivetradeagen.html>.



Will CPTPP Offer Tangible Improvements for Women?

Stephanie Honey

The last few years have brought a new sense of purpose to public discourse on how the global trading system should be shaped and, in particular, a new emphasis on the need for inclusive growth as part of broader trade liberalization efforts. In many cases, the rationale is not just because this is the “right” thing to do, but also because it is good for the broader economy and for business.

That said, the gender dimension of inclusion has not featured prominently, even among the wealth of commentaries on inclusive growth, globalization and trade that have been produced in recent years (with some notable exceptions — particularly the outstanding work that has been done by the International Trade Centre (ITC) and under the auspices of the Organisation for Economic Co-operation and Development). With the advent of the World Trade Organization’s (WTO’s) Declaration on Trade and Women’s Economic Empowerment¹ in December

2017, along with provisions in a handful of free trade agreements (FTAs), this issue has come more strongly to the fore. What is less obvious, however, is how to best tailor trade agreements to deliver tangible improvements for women.

Although there is not a great deal of gender-disaggregated data available, women are certainly under-represented in export activity, and their participation tends to be concentrated in traditional sectors (agriculture, textiles and clothing) and a few service sectors (tourism, education and information communications technology services). Globally, only one in five exporting firms is led by a woman.²

This under-representation matters, given the myriad benefits that trade brings: economic growth, job creation, higher wages and living standards, the dissemination of technology and know-how, and greater competitiveness and innovation. Exporting

1 WTO, *Joint Declaration on Trade and Women’s Economic Empowerment on the Occasion of the WTO Ministerial Conference in Buenos Aires in December 2017*, online: <www.wto.org/english/thewto_e/minist_e/mc11_e/genderdeclarationmc11_e.pdf>.

2 ITC, *Unlocking Markets for Women to Trade* (Geneva, Switzerland: ITC, 2015), online: <[www.intracen.org/uploadedFiles/intracenorg/Content/Publications/women_in_trade_web\(1\).pdf](http://www.intracen.org/uploadedFiles/intracenorg/Content/Publications/women_in_trade_web(1).pdf)>.

firms in developing countries employ more women than non-exporters, and women-owned businesses that export report substantially higher sales than their non-exporting counterparts.

The first step in addressing the problem is to develop a more comprehensive and nuanced understanding of the issues. The WTO declaration quite rightly emphasizes the importance of addressing the existing data gap on gender and trade issues as an early priority in order to enable governments to develop robust evidence-based policy approaches. This would also allow a more considered approach to the *ex ante* analysis of gender impacts of trade measures (for example, the United Nations Conference on Trade and Development's [UNCTAD's] Trade and Gender Toolbox)³ that some have proposed.

In addition, it is clear that countries will need to address a range of very important domestic, structural and distributional issues as part of the broader effort. Many commentators point out the importance of tackling inherent gender biases in domestic legislation governing land and asset ownership, discriminatory labour conditions, barriers to education and trade-related financing, and in cultural biases around gender roles that prevent women from engaging in business. On the whole, however, these are not issues that a trade agreement can easily address.

Business has a critical role to play in seeking to enhance women's engagement in trade, and there are some excellent examples of information-sharing and capacity-building programs already underway, including those developed by groups of multinationals and in regional business bodies such as the Asia-Pacific Economic Cooperation (APEC), the APEC Business Advisory Council and the ABAC WomenConnect project. But again, this private-sector-led effort does not inherently lend itself to a trade agreement.

Where trade agreements *could* help is in countering the specific trade challenges that women face in cross-border activity. Those challenges include classical trade barriers — such as tariffs and non-tariff barriers, particularly in sectors where women are currently significant participants — as well as barriers related to finding trade and market information, engaging in foreign networks, the need for more capacity building and skills development, and access to technology.

The Comprehensive and Progressive Agreement for Trans-Pacific Partnership⁴ (CPTPP, a renegotiation of the former Trans-Pacific Partnership) makes some progress in addressing these needs, both in its broad (gender-neutral) approach and in targeted provisions for women and economic growth. The latter provisions are intended to help women take full advantage of the benefits that the CPTPP could offer.

While the CPTPP's article 23.4 provisions, part of a general chapter on development, are rather modest and non-binding, the emphasis on information sharing, capacity building and enhancing access to markets is broadly consistent with the approach in the WTO declaration — which nine of the 11 CPTPP members signed. Nonetheless, it should be noted that the provisions stop well short of the more ambitious approach in the FTA signed by Canada and Chile,⁵ both of which are also CPTPP members.

Under article 23, CPTPP governments shall consider undertaking cooperative activities aimed at enhancing the ability of women, including workers and business owners, to access and benefit from CPTPP opportunities. The illustrative activities listed include:

- providing advice or training;
- exchanging information and experiences on programs aimed at helping women build skills and capacity;
- enhancing women's access to markets, technology and financing;
- developing women's leadership networks; and
- identifying best practices relating to workplace flexibility.

Beyond these provisions, the agreement includes a raft of gender-neutral measures that should, at least indirectly, help women in CPTPP economies trade more successfully.

The agreement includes reductions of tariffs and regulatory barriers, and there is a strong emphasis on addressing non-tariff barriers (NTBs) such as procedural obstacles, opaque technical regulations or unscientific sanitary and phytosanitary requirements. This is helpful, given that the burden of NTBs falls

3 UNCTAD, *Trade and Gender Toolbox*, UNCTAD/DITC/2017/1, online: <http://unctad.org/en/PublicationsLibrary/ditc2017d1_en.pdf>.

4 *Comprehensive and Progressive Agreement for Trans-Pacific Partnership*, 8 March 2018, (not yet entered into force), online: <<http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cptpp-ptpp/text-texte/cptpp-ptpp.aspx?lang=eng>>.

5 *Canada-Chile Free Trade Agreement*, 5 December 1996, (entered into force 5 July 1997), online: <<http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/chile-chili/fta-ale/index.aspx?lang=eng>>.

disproportionately heavily on women entrepreneurs and small and medium-sized enterprises (SMEs) as a result of the high fixed costs involved.

The CPTPP also includes a dedicated chapter on SMEs. Globally, one-third of SMEs is owned by women. These SME provisions should help address the information deficits that women commonly face in trying to engage in trade. Ideally, this chapter will also provide for the establishment of a formal intergovernmental SME committee that seeks to share experiences and address some of the information and capacity deficits that small firms face. Potentially, in the future, CPTPP members could look to extend this existing architecture to engagement on gender issues as well as SMEs. (In fact, at the time of signing the agreement, New Zealand, Canada and Chile signed a Joint Declaration on Fostering Progressive and Inclusive Trade,⁶ including gender issues).

Other CPTPP provisions that will likely enhance opportunities for women result from the strong underlying aim in the agreement to create the right regional environment for global value chains (GVCs) to flourish. By their nature, GVCs offer good opportunities for women, since they enable trade in even relatively small volumes of goods or services in cross-border production processes.

Finally, the CPTPP breaks new ground by including far-reaching trade provisions related to the digital economy and cross-border data flows. This, too, is likely to generate benefits for women, given the potential of new technologies such as online platforms, e-commerce, fintech (financial technology) and digitally provided services to overcome the traditional challenges that women have faced relating to cost, difficulty and scale in accessing foreign markets.

As economies look to negotiate new FTAs, including an eventual region-wide Asia-Pacific FTA, there are powerful reasons to include provisions that actively seek to enhance women's engagement in trade, both by reducing barriers and by providing assistance to participate more successfully. Many governments have recognized that the backlash against globalization demands answers, not least of which to safeguard the social licence for continued trade liberalization and, in particular, to offer a better narrative about the benefits of trade. But it's not just about telling the story better; it's about having a better story to tell about women's participation in trade.

6 Government of Canada, *Joint Declaration on Fostering Progressive and Inclusive Trade*, online: <http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cptpp-ptpgp/declaration_fpit-pcpi.aspx?lang=eng>.



Toward a “Win-win” for Gender Equality and Trade

Arjan de Haan

A progressive trade agenda, as put forward in the Canadian context, is possible and necessary. The impacts of trade and trade policies on gender equality are diverse; understanding those impacts can provide a “win-win” for both gender equality and trade.

Gendered Impacts of Trade: The Evidence

Globalization has been credited with boosting growth and wealth across the world and blamed for rising inequalities. It has also created job opportunities for large numbers of people, including many relatively poor women in parts of Asia, although the quality of such jobs remains a key challenge. There are also concerns that these gains come at the expense of others.

Rigorous research, including that supported through the International Development Research Centre's (IDRC's) Growth and Economic Opportunities for

Women (GrOW) program,¹ shows that the gendered impacts of trade and trade policies are diverse, refuting economists' hypotheses that increased competition would reduce forms of discrimination. Studies by Janneke Pieters and colleagues show, for example, that trade liberalization in Brazil had little impact on women's employment, (but had negative effects on men).² In Indonesia, trade liberalization increased employment of women.³ And in India, the period of trade liberalization saw both a decline in women's labour force participation and continued “distress” participation linked to high rates of poverty.

Thus, context matters. Importantly, there is strong gender segmentation in economic opportunities and labour force participation. Research under the University of Göttingen's GrOW project shows that

1 IDRC, “Growth and Economic Opportunities for Women”, online: <www.idrc.ca/sites/default/files/sp/Documents%20EN/GrOW-BrochureEN.pdf>.

2 Isis Gaddis & Janneke Pieters, “The Gendered Labor Market Impacts of Trade Liberalization: Evidence from Brazil” (2017) 52:2 J Human Resources 457–90.

3 Krisztina Kis-Katos, Janneke Pieters & Robert A Sparrow, “Globalization and Social Change: Gender-Specific Effects of Trade Liberalization in Indonesia” (2017) IZA Discussion Paper No 10552.

this segmentation is more persistent than generally thought.⁴ In fact, the segmentation increases as gender gaps in education decrease. Just as trade liberalization typically impacts each sector of an economy differently, gendered impacts are likely to differ, too.

From Evidence to Policy

While the links between trade and gender equality are complex, rigorous analysis can help us understand why we don't see more positive developments and identify the conditions under which a "win-win" situation emerges.

First, keep the broader context in mind. The impacts that are identified in research by Pieters and others are embedded in broader changes. As Stephanie Seguino highlighted in an IDRC seminar in December 2017, while the global expansion of employment opportunities for women is coming to a halt, this is also the case for men, and it may be part of a broader trend of growing inequalities and changing relations of production.⁵

Second, the impact of trade is mediated through national and international institutions. If the impact of trade liberalization, for example, depends on patterns of segmentation within countries, national policies to address these — such as education, campaigns, wage equality, child care and so forth — are critical. Similarly, social protection policies are needed in a global economy, especially to address the frequent labour market adjustments that come with more open economies.

Third, trade impacts gender equality through multiple channels. The nature of trade has changed and global production is organized increasingly through value chains. The impacts of multinational companies on local development are constantly increasing, and as a result, the protection of foreign investors, dispute resolution mechanisms and intellectual property rights provided for in trade agreements are critical development issues.

Priorities for Progressive Trade Policies

In the Canadian context, there is potential to enhance the impact of trade and value chains on sustainable development, including gender equality. In line with arguments made to promote Indigenous peoples' rights in trade, which highlight that promoting such rights

can help enhance investors' confidence,⁶ I believe that well-designed initiatives, anchored in international commitment and informed by solid and independent evidence, are both needed and possible.

Gender equality can be an explicit aim within trade agreements. This is exemplified by the gender chapter in the Canada-Chile Free Trade Agreement — which highlights that "improving women's access to opportunities and removing barriers in their countries enhances their participation in national and international economies,"⁷ — and in the Declaration on Trade and Women's Economic Empowerment signed at the World Trade Organization (WTO) conference in December 2017.⁸

In contrast, according to a recent analysis by the United Nations Conference on Trade and Development (UNCTAD),⁹ gender chapters in recent trade agreements contain few nationally specific goals and measures, and are not covered by dispute settlement mechanisms. They can, however, promote cooperation on initiatives for women's economic empowerment.

First, there is a critical need for gender-disaggregated data. Information about the gender and age distribution of employees is essential to understand the impacts of trade and investment, and the impact of protective policies. Very few countries have consistently tracked gender and women's access in financial systems — Chile being a major exception.¹⁰ Gender-disaggregated data is also key to ensuring that public procurement and trade facilitation can cater to the specific needs of women-owned enterprises.

Second, capacity and leadership are key. The WTO-led Aid for Trade initiative,¹¹ which helps address trade-related constraints that developing countries face, highlights that building-in measures to address the gaps women face, such as in connectivity, is critical.¹²

4 University of Göttingen, "Growth and Economic Empowerment of Women: Program Objective", online: <www.uni-goettingen.de/en/grow+program/532993.html>.

5 Arjan de Haan, "Can more inclusive trade promote gender equality?", IDRC (20 December 2017), online: <www.idrc.ca/en/resources/perspectives/can-more-inclusive-trade-promote-gender-equality>.

6 Risa Schwartz, "Moving Toward a Trade and Indigenous Peoples' Chapter in a Modernized NAFTA" CIGI, CIGI Papers No 144, 27 September 2017.

7 Canada-Chile Free Trade Agreement, 5 December 1996, Appendix II, c N bis (entered into force 5 July 1997), online: <http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/chile-chili/fta-ale/2017_Amend_Modif-App2-Chap-N.aspx?lang=eng>.

8 WTO, Joint Declaration on Trade and Women's Economic Empowerment on the Occasion of the WTO Ministerial Conference in Buenos Aires in December 2017, online: <www.wto.org/english/thewto_e/minist_e/mc11_e/genderdeclarationmc11_e.pdf>.

9 UNCTAD, "The New Way of Addressing Gender Equality Issues in Trade Agreements: Is It a True Revolution?" Policy Brief No 53, October 2017, online: <http://unctad.org/en/PublicationsLibrary/presspb2017d2_en.pdf>.

10 Global Banking Alliance for Women et al, Catalyzing Inclusive Financial Systems: Chile's Commitment to Women's Data, online: <www.sbf.cl/sbifweb3/internet/archivos/publicacion_111104.pdf>.

11 WTO & OECD, Aid for Trade at a Glance 2017: Promoting Trade, Inclusiveness and Connectivity for Sustainable Development (Geneva, Switzerland: WTO, 2017), online: <www.wto.org/english/res_e/booksp_e/aid4trade17_e.pdf>.

12 Ibid.

Deepening collaboration between the diplomacy, trade and development sides of countries’ foreign policies may help unlock new opportunities.

Finally, partnerships are critical in two main areas. It is important that debates are global, and that voices of countries and groups in the Global South have an equal influence on the shaping of policy measures for more inclusive trade. There are also important opportunities for public and private sector collaboration and to build on initiatives of multinational companies, as described in a recent report by Oxford University’s Linda Scott.¹³ Public policy can help leverage initiatives such as the Global Compact¹⁴ that voluntarily commits chief executive officers to promote the UN Sustainable Development Goals,¹⁵ directly helps enhance market access through trade facilitation and requires supplier diversity.

13 Linda Scott, *Private sector engagement with women’s economic empowerment: Lessons learned from years of practice*, online: <www.sbs.ox.ac.uk/sites/default/files/research-projects/GBCWEE/RES-0054-GBCWEE-Report-171123.pdf>.

14 United Nations Global Compact, online: <www.unglobalcompact.org/>.

15 UN, “Sustainable Development Goals”, online: <<https://sustainabledevelopment.un.org/sdgs>>.



Women and Trade at the WTO: Pink Herring, Trojan Horse or Historic Advance?

Balakrishnan Rajagopal

The Declaration on Trade and Women's Economic Empowerment¹ was adopted at the World Trade Organization (WTO) ministerial meeting in Buenos Aires in December 2017. While the declaration attracted support from a majority of WTO member countries, several were disinclined to support it, with India stating that the WTO was not the right forum to discuss gender issues. Civil society groups have greeted the declaration with skepticism, labelling it a "pink herring"² for distracting from the harm that WTO rules and policies cause women or a "trojan horse"³ for trying to sneak in issues, such as public procurement, under the garb of gender analysis. These concerns are largely correct, and the attempt to link gender with trade appears neither able to infuse life into WTO-led trade talks, nor tangibly

address the negative impacts of trade and economic policies on women.

The declaration itself is textually innocuous enough. It calls for collaboration to make trade and development policies more gender responsive through sharing of experiences and best practices, including through the WTO policy review process; more gender-disaggregated data and indicators; a focus on the impact of trade policies; a need to work together in the WTO and direct Aid for Trade⁴ to implement gender-sensitive trade policies.

There is nothing radical or new about any of these calls.

Indeed, this is the first time that such calls have emanated from the decision of a multilateral trade organization such as the WTO. But countries should already be collecting gender-disaggregated data and doing gender-impact analysis of all their policies — including trade — as they are required to do so under

1 WTO, *Joint Declaration on Trade and Women's Economic Empowerment on the Occasion of the WTO Ministerial Conference in Buenos Aires in December 2017*, online: <www.wto.org/english/thewto_e/minist_e/mc11_e/genderdeclarationmc11_e.pdf>.

2 Public Services International, "Women's Rights Organizations Call on Governments to Reject the WTO Declaration on 'Women's Economic Empowerment'", (12 December 2017), online: <www.world-psi.org/en/womens-rights-organizations-call-governments-reject-wto-declaration-womens-economic-empowerment>.

3 *Ibid.*

4 WTO & OECD, *Aid for Trade at a Glance 2017: Promoting Trade, Inclusiveness and Connectivity for Sustainable Development* (Geneva, Switzerland: WTO, 2017), online: <www.wto.org/english/res_e/booksp_e/aid4trade17_e.pdf>.

applicable international law, including the United Nations Convention on the Elimination of All Forms of Discrimination against Women⁵ or under Sustainable Development Goal 5.⁶

Concerns arise when the declaration veers off to list topics on which the WTO will organize “seminars” to discuss trade and economic empowerment of women. The mere attempt to use seminars as a way to bring gender issues into trade has raised hackles. Recalling that the Singapore issues, including government procurement, were introduced through an EU-sponsored “study group” and subsequently dropped after running into headwind, it seems that those concerns are not misplaced.

Oddly enough, there is nothing in the declaration about gender and the informal economy, given the latter's overwhelming feminization of labour, or about the negative gender impacts of trade and financial policies themselves. The assumption here seems to be that trade is gender neutral or even equality enhancing — a blind belief not based on facts, which has been well articulated by feminist and other scholarship.

Instead, the suggested topics read like a wish list for reviving the moribund post-Doha round of talks, with a focus on public procurement, financial inclusion, and the role of small and medium-sized businesses in value chains — all purportedly for gender parity. Naturally, there are concerns about why the issues that failed to gain traction in the WTO talks before — such as government procurement — are singled out in a declaration on gender and trade. The failure to call attention to any of the negative aspects of WTO policies, the lack of women's representation in the WTO mechanisms themselves or the biased nature of international legal norms that underpin them is telling.

Is there a need to ensure that trade and development policies are gender neutral or equality enhancing? Yes, but these are two rather different goals. Is the WTO the right forum, and is the declaration the right way to achieve these goals? Unlikely. Linking trade and gender is not controversial and is, in fact, necessary. The problem arises, as with any linkage argument in trade, such as trade and labour, with the lopsidedness of the field. Trade rules are robust and backed by strong enforcement mechanisms. Non-trade concerns such as labour, even when they are part of a trade agreement, as in the Comprehensive and Progressive Agreement for

Trans-Pacific Partnership,⁷ are explicitly designed to be paper tigers.

Gender concerns are unlikely to be any different. This is particularly so when the trade delegations and WTO mechanisms, including the dispute settlement body, remain staffed mostly by men. The rules of international law — which apply to trade disputes — draw on conservative interpretive principles that make it difficult to treat trade rules as part of a whole system of international law. This includes rules on gender equality, rather than a hermetically sealed domain devoid of connection to the real world.

The trade policy review mechanism at the WTO remains capable of catering only to the interests of a handful of powerful countries, given their power, size and influence, as well as capacity of delegations to engage in trade talks. Smaller countries, including least-developed countries, remain unable to engage meaningfully in this process. This situation has been exacerbated by the increasing prominence of bilateral and regional trade deals dominated by hegemonies, which favour large countries over smaller ones.

Non-trade concerns such as gender or labour are capable of giving a voice to women in small countries, but remain a mirage.

Gender inequality is systemic and requires a comprehensive approach to legal and social reform, which must include a reform of neoliberal economic and trade policies that harm women. These policies require a reform of international law in general, including arcane areas of law, such as treaty interpretation and sources. They also require an increase in the role of women in trade delegations, WTO staff and mechanisms. These overhauls can then be backed by the sort of measures the declaration promises — gender-impact tools and analyses, disaggregated data and indicators — but without a structural reform of economic, social and cultural domains, the declaration remains more of a pink herring than a historic advance.

5 UN Women, *Convention on the Elimination of All Forms of Discrimination against Women*, 18 December 1979, (entered into force 3 September 1981), online: <www.un.org/womenwatch/daw/cedaw/cedaw.htm>.

6 UN Women, “SDG 5: Achieve gender equality and empower all women and girls”, online: <www.unwomen.org/en/news/in-focus/women-and-the-sdgs/sdg-5-gender-equality>.

7 *Comprehensive and Progressive Agreement for Trans-Pacific Partnership*, 8 March 2018, (not yet entered into force), online: <<http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cptpp-ptppg/text-texte/cptpp-ptppg.aspx?lang=eng>>.



Calling for Gender-responsive Policy within the WTO

Cherise Valles

On March 8, 2018 — International Women’s Day — the World Trade Organization (WTO) held an event on “Delivering Opportunities for Women,” which addressed, among other topics, “women’s empowerment at work in the WTO.”¹

Since its creation in 1995, the WTO has become increasingly aware of the need to work toward gender parity within its own organization. Women make up less than 28 percent of professional staff at the WTO and are under-represented in senior management positions.² In 2017, there were 27 director-level (or above) positions at the WTO Secretariat, of which only four were filled by women. The data shows that men apply more often than women for professional vacancies at the WTO.

According to Christian Dahoui, director, Human Resources Division at the WTO, only 23.7 percent of applications for the three WTO director positions in 2017 were from women. An article published in the *Harvard Business Review* states that “men apply for a job when they meet only 60% of the qualifications, but women apply only if they meet 100% of them.”³ It is interesting that, in the end, the number of appointments for professional positions is relatively equally divided between men and women, even though there is a discrepancy in the applications received from the two groups.

The participation level of women in WTO dispute settlement is still quite low. There are usually three panellists on a panel. As of March 31, 2018, (not including ongoing panels), there have been 663 panellists, of which 103 were women and 560 were men. Since the creation of the Appellate Body, there have been 25 members (adjudicators), of which five were women.

1 WTO, “WTO event highlights role of trade in delivering opportunities for women”, [8 March 2018], online: <www.wto.org/english/news_e/news18_e/women_08mar18_e.htm>.

2 WTO, *Women in Trade, Women and the WTO: Gender Statistics (1995–2016)*, (Geneva, Switzerland: WTO, 2017), online: <www.wto.org/english/news_e/news17_e/gender_stats_march2017_e.pdf>.

3 Tara Sophia Mohr, “Why Women Don’t Apply for Jobs Unless They’re 100% Qualified”, *Harvard Business Review* (25 August 2014), online: <<https://hbr.org/2014/08/why-women-dont-apply-for-jobs-unless-theyre-100-qualified>>.

The level of participation of women in WTO councils, committees and other bodies is also quite low:

- The General Council is the WTO's highest-level decision-making body. From 1995 to 2018, there have been 24 ambassadors (occasionally there is more than one chair per year) that have served as the chair of the General Council (only two were women).
- The Dispute Settlement Body (DSB) has also had 24 chairs (only three were women).
- The Council for Trade in Goods (CTG) oversees the implementation of the 14 multilateral agreements on trade in goods. There have been 27 chairs of the CTG (only two were women).
- The Council for Trade in Services (CTS) oversees the implementation of the General Agreement on Trade in Services. There have been 26 chairs of the CTS (only four were women).
- The implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)⁴ is overseen by the Council for TRIPS. There have been 26 chairs (only four were women).
- The chairs of the subsidiary bodies of the CTG and the CTS, as well as the chairs of other committees, working groups, special sessions and negotiating groups, have been predominantly men.
- To date, the chairs of the Trade Negotiations Committee, the Special Session of the Committee on Agriculture, the Sub-committee on Cotton, the Negotiation Group on Market Access, the Negotiating Group on Rules, the Negotiating Group on Trade Facilitation, the Special Session of the DSB, and the Working Group on Trade, Debt and Finance have all been men.

That said, the WTO is taking further steps to advance the consideration of gender in various trade fora:

- In June 2017, the WTO nominated its first trade and gender focal point, Anoush der Boghossian, to coordinate efforts related to gender and trade among divisions and explore possibilities for future initiatives in this area.
- The WTO's technical assistance plan for 2018–2019 includes a mandate for the WTO to develop a training module on trade and gender. The

objective of the module is to focus “on trade policy with the aim to raise awareness and enhance the aptitude of policy makers to incorporate gender considerations in their analysis and trade policy development or negotiations.”⁵

- The WTO is also partnering with the World Bank to generate new data about the link between gender and trade, with the intention of releasing a detailed report at the next Aid for Trade⁶ Global Review in 2019.

In addition to these steps, the WTO organizes the Public Forum.⁷ This is the WTO's largest annual outreach event, which provides a platform for participants to discuss the latest developments in world trade and to propose ways of enhancing the multilateral trading system. I was the president of Geneva Women in International Trade (GWIT) in 2003. That year, GWIT, with the support of the Government of Canada and the Women Ambassadors in Geneva, sponsored the first formal session on gender and trade⁸ at the Public Forum. WTO Director-General Supachai Panitchpakdi made opening remarks at the session, which addressed issues such as how women are affected by, and contribute to, world trade.

The session was intended to shift the WTO's attention toward the significant contributions women make in international trade, as well as to highlight the impact of trade liberalization on women. Practical steps that were suggested at the GWIT session included the consideration of a gender component during the WTO's trade policy review process, the development of an active policy that considers female applicants in WTO hiring decisions and the integration of gender concerns in training courses offered by the WTO.

Fifteen years after this groundbreaking session on gender and trade, the WTO is undertaking some steps to enhance the participation of women in the WTO.

⁴ Agreement on Trade-Related Aspects of Intellectual Property Rights, 15 April 1994, [entered into force 1 January 1995], online: <www.wto.org/english/docs_e/legal_e/27-trips_e.htm>.

⁵ WTO, “Women and trade”, online: <www.wto.org/english/tratop_e/womenandtrade_e/womenandtrade_e.htm>.

⁶ WTO, “Aid for Trade”, online: <www.wto.org/english/tratop_e/devel_e/a4t_e/aid4trade_e.htm>.

⁷ WTO, “Public Forum”, online: <www.wto.org/english/forums_e/public_forum_e/public_forum_e.htm>.

⁸ WTO, “Challenges ahead on the road to Cancún”, online: <www.wto.org/english/tratop_e/dda_e/symp_devagenda_prog_03_e.htm>.



Transparency as a First Step for Tomorrow's Investment Treaties

Mona Pinchis-Paulsen

Currently, the international investment legal system, which governs the interaction among foreign investors, home states and host states, lacks a global constitution to provide cohesion of rules and practices. Instead, it is composed of a network of treaties, customs, contracts, national laws and ad hoc arbitral awards.

In short, international investment agreements (IIAs) grant foreign investors a wide range of rights independent of domestic laws and constitutions. To date, there are more than 3,000 IIAs, including bilateral and plurilateral investment treaties and investment chapters of preferential trade agreements.¹ Based on the protections afforded by all 3,000 of these IIAs, covered foreign investors may claim compensation directly against a host state before an ad hoc international arbitral tribunal, rather than suing through domestic legal institutions (known as investor-state arbitration [ISA]). A traditional feature of international arbitration is the private and confidential nature of the arbitral process, which is governed by the disputing parties' agreement.

Most existing IIAs do not address — or even mention — gender issues. In an ideal scenario, however, there would be global coordination for a “new generation”² of IIAs that reflect sustainable development goals, including gender equality.

Initiating such a plan is not an easy task, especially considering various governments' domestic, political and economic agendas. Prior to engaging in a dialogue as to how IIAs adversely impact women, policy makers may first consider engaging with civil society, non-governmental organizations, scholars and gender experts to facilitate greater analysis of the linkages between international investment policy and gender.

As a modest starting point, new IIA modernization initiatives should begin with further research and data collection, made available by newly created transparency rules that aim to place more information about ISA in the public domain.

¹ Investment Policy Hub, “International Investment Agreements Navigator”, online: <<http://investmentpolicyhub.unctad.org/IIA>>.

² UNCTAD, *Investment Policy Framework for Sustainable Development*, UNCTAD/DIAE/PCB/2015/5, online: <http://unctad.org/en/PublicationsLibrary/diaepcb2015d5_en.pdf>.

Although there have been impressive efforts³ regarding female representation in international dispute resolution, gender-based analysis of IIAs is largely unexplored. Even the most thoughtful studies examining the complexity of IIA impacts on investment flows and economic development are almost silent on gender.⁴

Some of this may be attributed to the fact that scholars still recognize that several areas in international investment policy require further study. For example, Jonathan Bonnitcha observes that there is currently no empirical investigation into the distributive impacts of IIAs.⁵ Moreover, due to the lack of comparable information and gender-based data, scholars point out that it is difficult to understand the gender effects of foreign direct investment (FDI) on women.⁶ Measuring gender impacts would require gender-disaggregated data, which Alicia Frohmann notes is difficult to obtain.⁷ Rasmane Ouedraogo and Elodie Marlet further show how difficult it is to research both gender development and gender inequality, observing that prior to their work, most scholarship focused only on one dimension.⁸

Robert Blanton and Shannon Blanton argue there is no “one size fits all”⁹ for FDI; different types of investment are driven by a variety of investor priorities, meaning that there are diverse impacts on gender. Rachel Anderson also observes that research “on FDI and gender often focuses on how gender inequality affects economic growth and development rather than on how FDI affects gender inequality.”¹⁰

An additional complication in studying gender and IIAs is that many IIAs cover investments beyond FDI, such as contractual rights, loans or portfolio investments.

In his leading treatise on international arbitration, Gary Born describes how several early institutional arbitral rules (the procedural rules for ISA) and IIAs were relatively silent on the issue of confidentiality and left it to the parties to agree (and, in the absence of agreement, the tribunal to decide) what arbitral information could become public.¹¹ As Lise Johnson explains, this was the case, even if public policies were at issue, or corrupt business practices were uncovered.¹² Esme Shirlow adds that transparency on a “case-by-case basis”¹³ meant that it was applied in an “unpredictable and at times inconsistent”¹⁴ manner. To address such concerns, steps were taken to begin opening ISA to the public, with reform to institutional arbitral rules and IIAs.

The United Nations Commission on International Trade Law (UNCITRAL) provides for greater transparency with the adoption of the Convention on Transparency in Treaty-based Investor-State Arbitration (also known as the Mauritius Convention).¹⁵

To date, the Mauritius Convention has been signed by 22 states and entered into force on October 18, 2017. The convention extends the application of the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration (Transparency Rules), which came into effect on April 1, 2014.¹⁶ When applicable, the Transparency Rules comprise a set of procedural rules that provide accessibility to the public with an online repository of information and documents in treaty-based ISA, as well as transparency of arbitral hearings and rules for third-party participation.¹⁷

3 Equal Representation in Arbitration, “Take the Pledge”, online: <www.arbitrationpledge.com/take-the-pledge>.

4 Jonathan Bonnitcha, Lauge N Skovgaard Poulsen & Michael Waibel, *The Political Economy of the Investment Treaty Regime* (Oxford, UK: Oxford University Press, 2017).

5 Jonathan Bonnitcha, *Assessing the Impacts of Investment Treaties: Overview of the Evidence* (Winnipeg, MB: International Institute for Sustainable Development, 2017), online: <www.iisd.org/sites/default/files/publications/assessing-impacts-investment-treaties.pdf>.

6 Rachel J Anderson, “Promoting Distributional Equality for Women: Some Thoughts on Gender and Global Corporate Citizenship in Foreign Direct Investment” (2010) 32 *Women’s Rts L Rep* 1, online: <<http://scholars.law.unlv.edu/facpub/543/>>.

7 Alicia Frohmann, “Gender Equality and Trade Policy” (2017) World Trade Institute Working Paper No 24/2017, online: <www.wti.org/media/filer_public/8b/a8/8ba88d03-1a2b-4311-af6a-629d9997c54c/working_paper_no_24_2017_frohmann.pdf>.

8 Rasmane Ouedraogo & Elodie Marlet, “Foreign Direct Investment and Women Empowerment: New Evidence on Developing Countries” (2018) IMF Working Paper No 18/25.

9 Robert G Blanton & Shannon Lindsey Blanton, “Is Foreign Direct Investment ‘Gender Blind’? Women’s Rights as a Determinant of US FDI” (2015) 21:4 *Feminist Economics* 61–88, online: <www.tandfonline.com/doi/abs/10.1080/13545701.2015.1006651>.

10 Anderson, *supra* note 6.

11 Gary B Born, *International Commercial Arbitration*, 2nd ed (Alphen aan den Rijn, The Netherlands: Wolters Kluwer, 2014).

12 Lise Johnson, *New UNCITRAL Arbitration Rules on Transparency: Application, Content and Next Steps* (New York, NY: Vale Columbia Center on Sustainable International Investment, 2013), online: <http://ccsi.columbia.edu/files/2014/04/UNCITRAL_Rules_on_Transparency_commentary_FINAL.pdf>.

13 Esme Shirlow, “Dawn of a New Era? The UNCITRAL Rules and UN Convention on Transparency in Treaty-Based Investor-State Arbitration” (2016) 31:3 *ICSID Review: Foreign Investment LJ* 622–54.

14 *Ibid*.

15 United Nations Convention on Transparency in Treaty-based Investor-State Arbitration (New York, 2014) (the “Mauritius Convention on Transparency”), 10 December 2014, (entered into force 18 October 2017), online: <www.uncitral.org/uncitral/en/uncitral_texts/arbitration/2014Transparency_Convention.html>.

16 UNCITRAL, “UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration (effective date: 1 April 2014)”, online: <www.uncitral.org/uncitral/en/uncitral_texts/arbitration/2014Transparency.html>.

17 UNCITRAL, “Transparency Registry”, online: <www.uncitral.org/transparency-registry/registry/index.jsp>.

As Johnson outlines, the Transparency Rules “set up a process and institutional framework to ensure that transparency is clearly and consistently put into practice.”¹⁸ However, she adds that the rules are limited in scope, with the rules requiring certain conditions be met for its application to ISA proceedings conducted under the UNCITRAL arbitration rules.¹⁹ The rules are also available, but not required, for use in ISA initiated under other institutional arbitral rules. Johnson also authored a guide to the Mauritius Convention that illustrates how, subject to some exceptions, the convention establishes a mechanism that updates all institutional arbitral rules to require application of the Transparency Rules to any ISA arising under existing treaties.²⁰

Stephan Schill summarizes it well: the Mauritius Convention pursues a “systematic reform approach”²¹ to the international investment law regime by allowing for an “opt in”²² to the Transparency Rules to enhance transparency of ISA proceedings.

The increased transparency due to states signing and ratifying the Mauritius Convention provides new information to the general public, including the nature of foreign investors' complaints, the public interests at issue and the impacted investment types. As ISA tribunals are tasked with resolving specific controversies between a foreign investor and a host state on a case-by-case basis, ISA transparency offers diverse international investment fact scenarios. These scenarios, coupled with public access to documents relevant to the dispute, trigger fresh opportunities for addressing women's economic development and/or gender equality.

First, gender researchers can delve deeply into the scenarios' details and create new investigations into the effects (or lack thereof) that foreign investment has on women as members of local communities and domestic workforces. Additionally, the availability of documents prepared for ISA proceedings offers gender experts more information about the challenges to government measures that affect women.

Second, using a gendered lens to examine these scenarios enables gender experts to guide existing IIA reform proposals, leading to new gender-focused recommendations, including corporate social responsibility initiatives and exceptions to investor protections or performance requirements in IIAs.²³

Finally, gender experts can provide third-party submissions to inform the arbitral tribunal (and the general public) about the gender perspective. This comes from the fact that third-party submissions are considered “a useful tool for bringing community perspectives to light and can highlight overlooked facts that could be critical to the dispute's outcome.”²⁴

Following these recommendations would be a step toward meeting the goals of fostering women's economic empowerment, as outlined by the Declaration on Trade and Women's Economic Empowerment.²⁵

¹⁸ Johnson, *supra* note 12.

¹⁹ *Ibid.*

²⁰ Lise Johnson, *The Mauritius Convention on Transparency: Comments on the treaty and its role in increasing transparency of investor-state arbitration* (New York, NY: Columbia Center on Sustainable Investment, 2014), online: <<http://ccsi.columbia.edu/files/2013/12/10-Johnson-Mauritius-Convention-on-Transparency-Convention.pdf>>.

²¹ Stephan W Schill, “Editorial: The Mauritius Convention on Transparency” (2015) 16:2 *J World Investment & Trade*, 201–04, online: <<http://booksandjournals.brillonline.com/content/journals/10.1163/22119000-01602009;jsessionid=22vqf9iw73gnh.x-brill-live-02>>.

²² *Ibid.*

²³ UNCTAD, *supra* note 2.

²⁴ Thierry Berger & Jesse Coleman, “Getting community voices heard in investor-state arbitration” (5 March 2018), *IEED blog* (blog), online: <www.iied.org/getting-community-voices-heard-investor-state-arbitration>.

²⁵ WTO, *Joint Declaration on Trade and Women's Economic Empowerment on the Occasion of the WTO Ministerial Conference in Buenos Aires in December 2017*, online: <www.wto.org/english/thewto_e/minist_e/mc11_e/genderdeclarationmc11_e.pdf>.



International Investment Arbitration Needs Equal Representation

Meg Kinnear and Otylia Babiak

The International Centre for Settlement of Investment Disputes (ICSID) is playing a key role in making women a greater part of the international investment dispute settlement system.¹ The ICSID is taking numerous and concrete steps to address the gender imbalance in the field and is making itself accountable by publishing those results. This is part of a larger global trend to make international legal systems and international commerce more inclusive of women.

Achieving economic empowerment of women through their inclusion in local, national and international commerce remains a fundamental challenge for the global trade and investment system overall. The World Trade Organization's (WTO's) recently signed Declaration on Trade and Women's Economic Empowerment² is an innovative step toward this goal, as are the inclusion of "gender chapters" in the Canada-

Chile³ and the Chile-Uruguay⁴ free trade agreements (FTAs).

In addition to progressive FTAs and the WTO declaration, the World Bank has also prioritized gender equality in its international development work. The World Bank's gender strategy for 2016 to 2023 focuses on four priorities:⁵

- improving health, education and social protection;
- removing constraints on women's participation in the labour force;

1 ICSID, online: <<https://icsid.worldbank.org/en/>>.

2 WTO, *Joint Declaration on Trade and Women's Economic Empowerment on the Occasion of the WTO Ministerial Conference in Buenos Aires in December 2017*, online: <www.wto.org/english/thewto_e/minist_e/mc11_e/genderdeclarationmc11_e.pdf>.

3 *Canada-Chile Free Trade Agreement*, 5 December 1996, (entered into force 5 July 1997), online: <<http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/chile-chili/fta-ale/index.aspx?lang=eng>>.

4 *Acuerdo de Libre Comercio entre la República de Chile y la República Oriental del Uruguay*, 4 October 2016, (not yet entered into force), online: <<http://investmentpolicyhub.unctad.org/Download/TreatyFile/5408>>.

5 World Bank Group, *Gender Equality, Poverty Reduction, and Inclusive Growth*, online: <<http://documents.worldbank.org/curated/en/820851467992505410/pdf/102114REVISED-PUBLIC-WBG-Gender-Strategy.pdf>>.

- removing barriers to women's ownership and control over assets; and
- enhancing women's voices.

Far-reaching benefits are behind this strategy, says World Bank President Jim Yong Kim: "When countries value girls and women as much as boys and men; when they invest in their health, education, and skills training; when they give women greater opportunities to participate in the economy, manage incomes, own and run businesses — the benefits extend far beyond individual girls and women to their children and families, to their communities, to societies and economies at large."⁶

But there is still work to be done to involve women in all facets of international trade and investment dispute resolution. Women remain significantly under-represented in these fields, both as counsel and especially as lead counsel, or "first chair," and as judges and adjudicators. As Nienke Grossman, a professor at the University of Baltimore School of Law, has noted in her leading article, "Shattering the Glass Ceiling in International Adjudication,"⁷ "since 1998, an average of 13% of judges on international courts without representativeness requirements have been women, while, on average, 31% of judges on courts with such mandates or aspirations were women."⁸ Looking again at the empirical data in 2015, "on most international courts and tribunals,...men continue greatly to outnumber women on the bench."⁹ However, the tides are beginning to turn because of various international efforts.

A particular initiative was recently advanced in the international arbitration world. In response to the absence of women acting as counsel or as arbitrators, a diverse international group of lawyers, arbitrators, academics, states, arbitral institutions and law firms joined together in 2015 to take "the pledge"¹⁰ for equal representation in arbitration. The pledge consists of an undertaking by its signatories to improve the profile and representation of women in arbitration and appoint women as arbitrators on an equal-opportunity basis. Concrete steps suggested for those taking the pledge include nominating a fair representation of

women on lists of arbitrators and rosters of standing candidates, appointing a fair representation of women for arbitrations, making gender statistics on appointments publicly available and mentoring women in the field.

The ICSID has also taken steps to increase the representation of women from all parts of the globe in international investment arbitration and conciliation cases. As the world's leading institution in investor-state dispute settlement (ISDS), the ICSID has a significant role in supporting gender equality in the field. The ICSID possesses unparalleled expertise, gained through hundreds of investment arbitration proceedings, including management of procedural milestones, such as the appointment of arbitrators and the constitution of tribunals, conciliation and annulment committees. The ICSID also has a roster of arbitrators and conciliators compiled by its 153 member states, giving a unique vantage point on the participation of women in ISDS globally.

Reflecting the Reality

The ICSID contributes to the advancement of women in ISDS in several different ways.

First, the ICSID Secretariat collects and regularly presents data on the appointment of women as arbitrators in ICSID proceedings. The ICSID's data on the participation of women in international arbitration shows that there is still a relative shortage of female arbitrators in ISDS. For instance, between the creation of the ICSID in October 1966 and December 2017, more than 2,200 appointments were made to ICSID tribunals and ad hoc committees, yet only nine percent of appointees over that period were women.

While this is a disappointing number, the situation is improving.¹¹ Of the 195 appointments made to ICSID tribunals or ad hoc committees in 2017, 19 percent were women.¹² That is already a significant improvement from 2016, when only 13 percent of appointees were female.¹³ The improved gender numbers also contributed to an improvement in the overall diversity of appointees. Of the 37 appointments of women in 2017, there were 18 different individuals named and they were nationals of a dozen different states.¹⁴

6 Jim Yong Kim, "Evidence and Impact: Closing the Gender Gap" (Remarks delivered at the US State Department/Gallup event, Washington, DC, 19 July 2012), online: <www.worldbank.org/en/news/speech/2012/07/19/remarks-world-bank-group-president-jim-yong-kim-evidence-impact-closing-gender-gap>.

7 Nienke Grossman, "Shattering the Glass Ceiling in International Adjudication" (2016) 56:2 Va J Intl L.

8 *Ibid.*

9 *Ibid.*

10 Equal Representation in Arbitration, "Time for Change", online: <www.arbitrationpledge.com/>.

11 ICSID, 2017 Annual Report (Washington, DC: ICSID, 2017), online: <<https://icsid.worldbank.org/en/Documents/icsiddocs/ICSID%20AR%20EN.pdf>>.

12 *Ibid.*

13 *Ibid.*

14 *Ibid.*

In most cases, the instrument of consent to arbitration mandates party appointment, with appointment by an institution generally as a default measure in the absence of a party making its appointment. As a result, disputing parties appoint roughly 75 percent of all ICSID arbitrators.¹⁵ As presented in the ICSID's annual report, in the 2017 fiscal year, 14 percent of all appointments involved women.¹⁶ The ICSID and the respondent/state each appointed 43.5 percent of these female appointees, while the parties jointly appointed 13 percent of female arbitrators.¹⁷ No women were appointed by the claimant individually or by the co-arbitrators. In 2017, the ICSID made a total of 58 appointments, of which 24 percent were women and 76 percent were men.¹⁸ Given the prevalence of party appointment in ISDS, parties, their counsel and party-appointed arbitrators will clearly play a key role in advancing the participation of female arbitrators in ISDS.

Adopting Best Practices

Second, the ICSID incorporates gender awareness in its best practices for appointing individuals to ICSID tribunals, conciliation commissions and ad hoc committees. For example, when called upon to appoint an arbitrator, the ICSID always includes at least one woman among the candidates it proposes in a list or ballot compiled for the parties, and this has increased the number of women ultimately appointed to tribunals and committees. Similarly, the ICSID has encouraged its member states to consider diversity when making designations to the panels of arbitrators and of conciliators, as mentioned in its recent note on “Considerations for States in Designating Arbitrators and Conciliators to the ICSID Panels.”¹⁹ In September 2017, the chairman of the ICSID's administrative council made 10 new designations to each of the panels of arbitrators and of conciliators, and designated an equal number of men and women on each of the panels for the first time in the ICSID's history.

Third, the ICSID provides women in the ISDS field with an opportunity to showcase their expertise at conferences and through its publication of the *ICSID Review: Foreign Investment Law Journal*. The *ICSID Review* publishes case comments, notes and articles on contemporary issues in international investment law and ISDS in Spanish, English and French. This

kind of opportunity is particularly important in international dispute settlement, where parties making appointments may not always be aware of the breadth of expertise available in different regions.

Leading by Example

Finally, the ICSID reflects its commitment to the increasing participation of women in international investment arbitration in the composition of its own Secretariat, with women comprising more than 74 percent of its staff. Women fill all types of positions, including legal assistants, paralegals, counsel, financial officers, deputy secretary-general and secretary-general.

There is no doubt that there is a significant distance to go in achieving greater representation of women in international arbitration. However, there is much to be optimistic about. We are seeing concrete changes, not just from a statistical perspective but also in the willingness of parties, their counsel and institutions to consider female arbitrators. As more women join the profession and gain seniority in arbitration, they will certainly become more prominent as counsel and as arbitrators, and equal representation of women in international arbitration will be commonplace rather than aspirational.

¹⁵ *Ibid.*

¹⁶ *Ibid.*

¹⁷ *Ibid.*

¹⁸ *Ibid.*

¹⁹ ICSID, “Considerations for States in Designating Arbitrators and Conciliators to the ICSID Panels”, online: <<https://icsid.worldbank.org/en/Documents/about/Considerations%20for%20States%20on%20Panel%20Designations-EN%20final.pdf>>.



Trade's Impact on Women is Multi-faceted; Trade Policy Should Be, Too

Julia Seiermann

In December 2017, 118 members of the World Trade Organization (WTO) concluded the Declaration on Trade and Women's Economic Empowerment.¹ And, indeed, there is ample scope for progress on the subject.

In 2016, while three-quarters of men aged 15 and older participated in the labour force,² only half of women in the same age group did so as well.³ Women also earned on average 24 percent less than men as of 2015.⁴ Policy makers must use all available levers, including those of international trade and trade policy, to increase economic opportunities for women.

International trade has contributed to lifting millions out of poverty — among them, many women. But so far, trade policy design has not paid specific attention to the situation of women. Whether intended or not, economic policies often impact men and women differently, and trade policies are no exception. Trade policies affect the relative prices of goods and services in the economy and, therefore, the incentives for economic activities, which can have a far-reaching impact on women's economic empowerment.

First, a general reduction in trade costs can increase economic opportunities for women by increasing competition. Put simply, when facing global competition, employers cannot afford to discriminate against qualified women. This happened in the United States during the 1980s, when the gender wage gap decreased more than proportionally in industries that faced higher import competition and in which US firms had previously enjoyed large market power.⁵

1 WTO, *Joint Declaration on Trade and Women's Economic Empowerment on the Occasion of the WTO Ministerial Conference in Buenos Aires in December 2017*, online: <www.wto.org/english/thewto_e/minist_e/mc11_e/genderdeclarationmc11_e.pdf>.

2 World Bank, "Labor force participation rate, male (% of male population ages 15+)" (modeled ILO estimate)", online: <<https://data.worldbank.org/indicator/SL.TLF.CACT.MA.ZS>>.

3 World Bank, "Labor force participation rate, female (% of female population ages 15+)" (modeled ILO estimate)", online: <<https://data.worldbank.org/indicator/SL.TLF.CACT.FE.ZS>>.

4 UN Women, *Progress of the World's Women 2015–2016*, online: <<http://progress.unwomen.org/en/2015/>>.

5 Sandra E Black & Elizabeth Brainerd, "Importing Equality? The Impact of Globalization on Gender Discrimination" (2004) 57:4 ILR Review 540–59, online: <<http://journals.sagepub.com/doi/abs/10.1177/001979390405700404>>.

Second, trade liberalization can induce a technological upgrading in production, which reduces the importance of physical strength of workers. In Mexico, following the introduction of the North American Free Trade Agreement, technological upgrading reduced the comparative advantage of men in production. As a result, industries with larger tariff reductions experienced a greater increase in blue-collar employment of women.⁶

Third, women can benefit if trade policies lead to a reallocation of production toward sectors with high female employment.⁷ In the case of Indonesia, trade liberalization in the 1990s was more intensive for sectors with high female employment; consequently, female employment increased more than male employment.

Having established that trade can be an important determinant of women's labour market participation and wages, it is important to highlight that economic incentives often have a much more profound impact than simply altering women's economic outcomes.

Evidence shows changes in economic incentives that favour women can also help reduce other aspects of gender inequality. Studying the impact of economic incentives on missing women in rural China shows that increasing returns for tea, which women have a comparative advantage in producing, not only increased women's incomes, but also the survival of girls in tea-producing regions in the early 1980s.⁸

In Bangladesh, the rise of the export-oriented garment industry, which employs a workforce of 80 percent women, has increased young girls' (aged five to nine) education and reduced the number of teenaged girls (aged 12 to 18) getting married.⁹ These examples show that the impact of trade policy on women's lives goes far beyond economic benefits. Trade policy affects not only other targets of the UN Sustainable Development Goals,¹⁰ such as health and education, but the very essence of gender inequality: the way women are perceived in society and the opportunities they are given.

This profound impact of trade on gender makes it all the more important to ensure that trade policies benefit women.

The first step is choosing the right policy instrument — and that is no small feat. In the case of Indonesian trade liberalization mentioned above, the reduction of tariffs on intermediate inputs was crucial, while output tariffs played only a minor role.¹¹

Second, the effectiveness of trade policies on the ground can be hampered by labour market frictions,¹² lack of geographic mobility of workers¹³ or other constraints. Similar policies can have different effects, depending on the local context. In India, districts exposed to trade liberalization experienced slower poverty reductions than those that were less exposed,¹⁴ while the opposite happened in Indonesia.¹⁵

Third, even if previously female-intensive sectors benefit from a trade reform, this may decrease female labour participation under specific circumstances, as was the case in the United States.¹⁶ Methodologies to assess the impact of trade policies on gender have recently started to become available, such as the United Nations Conference on Trade and Development (UNCTAD) Trade and Gender Toolbox,¹⁷ or its diagnostic framework for trade policy and employment, which can account for gender. However, the limited availability of data represents an important constraint on comprehensive assessments, especially in the case of developing and least-developed countries.

Academic literature has shown that trade policy can have an important impact on women's economic empowerment and beyond. Researchers have generated insights on the different channels through which this can happen, and their results have underscored the necessity of conducting context-specific assessments on the gender impacts of trade policies.

6 Chinhui Juhn, Gergely Ujhelyi & Carolina Villegas-Sanchez, "Men, women, and machines: How trade impacts gender inequality" (2014) 106 *J Development Economics* 179–93, online: <www.sciencedirect.com/science/article/pii/S0304387813001363>.

7 Krisztina Kis-Katos, Janneke Pieters & Robert Sparrow, "Globalization and Social Change: Gender-Specific Effects of Trade Liberalization in Indonesia" (2017) IZA Discussion Paper No 10552, online: <<http://ftp.iza.org/dp10552.pdf>>.

8 Nancy Qian, "Missing Women and the Price of Tea in China: The Effect of Sex-Specific Earnings on Sex Imbalance" (2008) 123:3 *Quarterly J Economics* 1251–85.

9 Rachel Heath & A Mushfiq Mobarak, "Manufacturing growth and the lives of Bangladeshi women" (2015) 115 *J Development Economics* 1–15.

10 UN, "Sustainable Development Goals", online: <<https://sustainabledevelopment.un.org/sdgs>>.

11 Kis-Katos, Pieters & Sparrow, *supra* note 7.

12 UNCTAD, "Trade in Unemployment" (2014) Policy Issues in International Trade and Commodities Research Study Series No 64, online: <http://unctad.org/en/PublicationsLibrary/itcdtab64_en.pdf>.

13 Yuan Zi, "Trade Liberalization and the Great Labor Reallocation" (2016) Graduate Institute of International and Development Studies, International Economic Department Working Paper No HEIDWP18-2016, online: <<http://repository.graduateinstitute.ch/record/294622/files/HEIDWP18-2016.pdf>>.

14 Petia Topalova, "Factor Immobility and Regional Impacts of Trade Liberalization: Evidence on Poverty from India" (2010) 2:4 *American Economic J: Applied Economics* 1–41, online: <www.aeaweb.org/articles?id=10.1257/app.2.4.1>.

15 Krisztina Kis-Katos & Robert Sparrow, "Poverty, labor markets and trade liberalization in Indonesia" (2015) 117 *J Development Economics* 94–106.

16 Philip Sauré & Hosny Zoabi, "International trade, the gender wage gap and female labor force participation" (2014) 111 *J Development Economics* 17–33.

17 UNCTAD, *Trade and Gender Toolbox*, online: <http://unctad.org/en/PublicationsLibrary/ditc2017d1_en.pdf>.

The WTO declaration attests that its signatories — a majority of the WTO's member states — not only acknowledge the potential contribution of trade and trade policy to gender equality but also have a vision of the next steps they need to undertake to make progress on this issue. By joining the declaration, they agree to share their experience on the gender-based analysis of trade policies and the collection of gender-disaggregated data to work together to remove barriers for women's empowerment and to ensure that Aid for Trade¹⁸ supports a gender-responsive trade agenda.

After outlining the solution, it is now time to act and implement it.

18 WTO, "Aid for Trade", online: <www.wto.org/english/tratop_e/devel_e/a4t_e/aid4trade_e.htm>.



International Trade Is at Risk of Leaving Women Behind

Simonetta Zarrilli

Globalization has contributed to a more prosperous world, and international trade remains a powerful instrument for development. Globalization, however, has been beneficial to many, but not to all, and markets have proved unsuccessful in fairly distributing the gains from international trade.

Indeed, inequalities between and within countries are on the rise. According to Oxfam, 82 percent of the wealth generated last year went to the richest one percent of the global population, while the 3.7 billion people who make up the poorest half of the world saw no increase in their wealth.¹ Trade — once seen as a key solution to poverty and underdevelopment — is now singled out as one of the main causes. The spread of anti-globalization and anti-trade movements reflects changing sentiments toward trade.

Among those that globalization and international trade have “left behind” are many women. While open

markets and global value chains have provided new employment opportunities for women — in most cases, job quality, wages, and prospects for skill development and advancement have remained limited.

Women continue to be a cheap source of labour that firms can use to cut production costs and tackle global competition.² In manufacturing, women work in a limited number of sectors, mainly in light manufacturing, and within these sectors they perform functions linked to production rather than to supervision or management. In agriculture, women are often found in subsistence agriculture as producers or as members of family enterprises and are often unpaid. In services, they tend to be clustered in the low-skill segments of the sector, such as street vendors or informal cross-border traders. Their ability to switch from one sector to another is hampered by their skill level, limited access to productive resources, time poverty and social norms that dictate which jobs are suitable for women.

1 Oxfam, *Reward Work, Not Wealth* (Oxford, UK: Oxfam International, 2018), online: <www.oxfam.org/sites/www.oxfam.org/files/file_attachments/bp-reward-work-not-wealth-220118-sum-en.pdf>.

2 United Nations Conference on Trade and Development (UNCTAD), *Trade as a tool for the economic empowerment of women*, UN Doc TD/B/C.I/EM.8/2 (2016), online: <http://unctad.org/meetings/en/SessionalDocuments/ciem8d2_en.pdf>.

These limitations imply that women are less able than men to react to shocks in the market. If the sectors in which women work decline because of import competition, or if the products they produce or the services they provide are outperformed in price and quality by imports, their ability to relocate is limited.

Among the benefits of international trade — providing domestic producers with much larger markets, increasing the efficiency of domestic production and allowing it to attain economies of scale, and being a complement and a condition of the development of countries' productive capacities — is technology transfer. Such a positive phenomenon that allows countries to move up the technological ladder has often had negative repercussions on women. Indeed, in several countries, especially in Asia, technological upgrading has resulted in large layoffs of female workers, since women lack the necessary skills to be involved in the production of more sophisticated goods.

In agriculture, women face two main risks: first, they may be unable to compete with imported products; second, they may be crowded out by export- and commercially oriented operations. Moreover, when a crop becomes appealing for export, it usually passes under men's control.

Women's dismissals and marginalization are often among the “collateral damages” of trade reforms pursued because of their potential benefit to a country. Arguably, trade measures and trade agreements can play a role in prioritizing women's well-being. What follows are two possible ways to do so.

First, include specific reference to gender equality and women's economic empowerment in trade agreements. Second, assess the potential impact of trade reform not only on a country but within specific segments of the population, including women.

Let us start with the first path. Some recent free trade agreements (FTAs) include trade and gender chapters. While the examples so far are those of the Chile-Uruguay³ and Chile-Canada⁴ FTAs, other countries and regional blocks, including the European Union, have announced their intention to follow suit.

This definitely provides more visibility for gender issues by moving them from the “aspirations” of the preamble of the agreements or the technicalities of the technical

cooperation sections to the core text. Nevertheless, the trade and gender chapters remain a “soft” component of the agreements; they do not establish gender-related rules that the parties should comply with or thresholds to be reached; they do not imply harmonization of gender-related legislation between the parties; they are excluded from the dispute settlement mechanism; and they do not refer to the possible impact of the agreement on women.

The second path to making trade policy gender responsive is to assess its gendered impact before implementation. Such an assessment would help determine how women would be affected by a proposed trade reform. If negative impacts are expected, the negotiation of the agreement may be put on hold, its terms changed or complementary measures put in place. UNCTAD has developed a methodology — known as the Trade and Gender Toolbox⁵ — to carry out *ex ante* gender assessments of trade reforms. In its sustainable impact assessments of trade agreements, the European Union looks at the three pillars of sustainable development: economic, social and environmental. An in-depth gender assessment is, however, missing, despite gender equality being a pillar of EU policy.

Women's rights are human rights, therefore, no gender discrimination can be tolerated. Further, equal opportunities for women to become full-fledged economic actors would be “smart economics” that would enhance a country's performance and competitiveness.

Both arguments should appeal to policy makers.

The steps taken so far to address gender in trade policy do not seem particularly bold, and there is a discrepancy between “strong” commitments and rather “light” implementation. The Declaration on Trade and Women's Economic Empowerment⁶ is another example of a mild approach to mainstreaming gender in trade.

The shortcomings in the way countries execute gender analysis and use trade policy as an instrument for women's economic empowerment should not obscure the fact that a real shift is taking place. The inclusion of trade and gender chapters in FTAs and support from more than two-thirds of the World Trade Organization's membership for the Declaration on Trade and Women's Economic Empowerment reflect the trade community's new interest in gender equality and the recognition that trade can be instrumental in achieving it.

3 Acuerdo de Libre Comercio entre la República de Chile y la República Oriental del Uruguay, 4 October 2016, (not yet entered into force), online: <<http://investmentpolicyhub.unctad.org/Download/TreatyFile/5408>>.

4 Canada-Chile Free Trade Agreement, 5 December 1996, (entered into force 5 July 1997), online: <<http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/chile-chili/fta-ale/index.aspx?lang=eng>>.

5 UNCTAD, *Trade and Gender Toolbox* (New York, NY: United Nations, 2017), online: <http://unctad.org/en/PublicationsLibrary/ditc2017d1_en.pdf>.

6 WTO, *Joint Declaration on Trade and Women's Economic Empowerment on the Occasion of the WTO Ministerial Conference in Buenos Aires in December 2017*, online: <www.wto.org/english/thewto_e/minist_e/mc11_e/genderdeclarationmc11_e.pdf>.



Gender Equality in the WTO: The Need for Women Leaders

Debra Steger

Why Gender Parity in Leadership Matters

The Declaration on Trade and Women's Economic Empowerment¹ is a stepping stone on the road toward advancing gender equality and the economic empowerment of women in the World Trade Organization (WTO). The best way to achieve gender equality in an organization is to change the leadership at the top so that it represents the population and changes the culture of decision making and policy thinking.

In the United Nations, Secretary-General António Guterres is fast-tracking implementation of Sustainable Development Goal 5² with a system-wide strategy on gender parity. Management reform is integral

to that strategy. He has already transformed the senior management group with his gender-balanced appointments. By the end of his mandate, he pledged full gender parity at other top levels of the United Nations.³

Women have a rich — albeit underappreciated — history of influence in the trading system. Canadian Minister of International Trade Patricia Carney negotiated the Canada-US Free Trade Agreement.⁴ Former Deputy Minister of International Trade Sylvia Ostry was instrumental in launching the Uruguay Round, among her many accomplishments. The United States led the way with women trade representatives: Carla Hills, Charlene Barshefsky and Susan Schwab, as well as female deputies and general counsel. In the Uruguay Round, there was a paucity of female lead negotiators and no women chairs of negotiating groups or trade negotiation committees. The notable exception

1 WTO, *Joint Declaration on Trade and Women's Economic Empowerment on the Occasion of the WTO Ministerial Conference in Buenos Aires in December 2017*, online: <www.wto.org/english/thewto_e/minist_e/mc11_e/genderdeclarationmc11_e.pdf>.

2 UN Women, "SDG 5: Achieve gender equality and empower all women and girls", online: <www.unwomen.org/en/news/in-focus/women-and-the-sdgs/sdg-5-gender-equality>.

3 United for Gender Parity, "Strategy", online: <www.un.org/gender/content/strategy>.

4 Canada-United States Free Trade Agreement, 2 January 1988, (entered into force 1 January 1989), online: <www.international.gc.ca/trade-commerce/assets/pdfs/agreements-accords/cusfta-e.pdf>.

was in dispute settlement, where two women were lead negotiators (American and Canadian), and several women from developing and developed countries were negotiators.

While the WTO has recently achieved gender equality in the professional and administrative staff of its Secretariat, the number of women serving as senior managers in the Secretariat, chairs of WTO governing bodies, panelists, chairs of panels and Appellate Body members is distressingly low.

Real change cannot take place without gender parity in positions of leadership and authority in the WTO. Tokenism — having only a few women in leadership positions — will not accomplish the key goals of gender equality and women's economic empowerment. Retrenchment is also an ever-present and real concern.

Women's Leadership in the WTO

What is the real story on women's participation in leadership, decision making, arbitral and other positions of authority and influence in the WTO?

Surprisingly, the story of women's representation in leadership positions has not improved appreciably over the past 23 years since the WTO was established. While the WTO Secretariat has made important strides in employing more women in administrative and professional positions, women have not moved into senior management positions in significant numbers.⁵

In 2016, the top managers of the WTO Secretariat were all male: the director-general and three deputy directors-general. Out of 20 directors in 2016, only three were women.⁶ To add a personal element, I was the first female director hired in the history of the WTO or General Agreement on Tariffs and Trade secretariats in 1995. Ministerial conferences, councils, committees and other bodies have an even more disappointing track record of failing to appoint women.

The following are gender statistics for the key WTO governing bodies from 1995 to 2016:

- Ministerial Conferences: 10 chairs (of which two were women);
- General Council: 22 chairs (of which two were women);

- Dispute Settlement Body: 23 chairs (of which two were women);
- Council for Trade in Goods: 25 chairs (of which two were women);
- Council for Trade in Services: 24 chairs (of which four were women); and
- Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS): 23 chairs (of which three were women).⁷

Some of the same women who served as chairs of the General Council also acted as chairs of the Dispute Settlement Body and other councils, thus reducing the overall number of women who have served as chairs of WTO councils.

Trade negotiations are often hailed as the primary function of the WTO. Male dominance in the leadership of key negotiating bodies is striking. In the Doha Round since 2002, the chairs of the Trade Negotiations Committee have all been men, as have the chairs of the negotiations on agriculture, cotton, market access, rules, dispute settlement and trade facilitation. The only negotiations in which there have been any women chairs have been in TRIPS (one out of eight chairs), trade and environment (three out of eight chairs), and the Committee on Trade and Development (one out of eight chairs).

WTO dispute settlement is referred to as the “jewel in the crown” of the WTO. Today, the director-general, supported by the Secretariat, appoints some or all panelists to most panels. From 1995 to 2016, out of the 276 individuals selected to serve on panels, only 40 (14 percent) were women.⁸ Out of 268 panels composed in that period, only 16 (or six percent) were chaired by women.⁹ These statistics are worse than national statistics for women judges, corporate directors or members of the legislature and for international arbitrators in other fields. With respect to the Appellate Body, only five of the 25 people who have been appointed to serve have been women.¹⁰

5 WTO, *Women in Trade, Women and the WTO: Gender Statistics (1995–2016)* (Geneva, Switzerland: WTO, 2017), online: <www.wto.org/english/news_e/news17_e/gender_stats_march2017_e.pdf>.

6 *Ibid.*

7 *Ibid.*

8 *Ibid.*

9 *Ibid.*

10 *Ibid.*

Recommendations for Progress

Today, there are numerous highly qualified women in international trade. WTO members, the director-general and the Secretariat must make more of an effort to select women for leadership, decision-making, arbitral and other positions of authority in the WTO. The following are seven recommendations:

- The importance of gender should be considered in the next appointment of a director-general. There were excellent female candidates from Africa, Asia and Latin America in the 2013 director-general selection process.¹¹ Highly qualified women are available — WTO members must have the will to choose them.
- The director-general and senior management must take steps to address the lack of women in senior roles in the WTO Secretariat. Specifically, the director-general needs to develop a gender parity strategy for the WTO — not only for hiring administrative and professional staff, but also for director- and deputy director-general positions. The UN gender parity strategy could be a guide.¹²
- WTO members must take gender into consideration when appointing chairs of councils and committees.
- WTO members must take gender into consideration when selecting chairs of the Trade Negotiations Committee and negotiating groups. The record to date is abysmal.
- WTO members must take gender into consideration when appointing members of the Appellate Body. Competence and qualifications should take precedence over politics in appointing Appellate Body members; if this were the case, more women would be appointed.

- The director-general can, and must, appoint more women panelists in WTO dispute settlement cases. The Secretariat recommends names to the director-general. A woman should be appointed to the position in the Secretariat charged with assisting the director-general with this task.
- The director-general should investigate and report to WTO members on why there are so few women directors in the Secretariat. The study could also examine the process for appointing deputy directors-general and compare the WTO process with other international organizations.

Action must be taken now to increase the number of women in leadership roles at the WTO. Appointing more women to senior management positions will help to change the culture of the Secretariat, making it a more collegial, diverse, inclusive and healthy workplace for both men and women. Decision making is the lifeblood of the WTO. The members negotiate the rules in the governing bodies, while panels and the Appellate Body interpret and apply those rules in resolving disputes. Very few women have been entrusted by the members with the responsibility of chairing a WTO governing body, the privilege of deciding a dispute settlement case or the honour of being a member of the Appellate Body. It is time that changed, and time that women are given a real voice in decision making in the WTO.

Guterres said, “Gender parity...is an urgent need and a personal priority. It’s a moral duty and an operational necessity. The meaningful inclusion of women in decision-making increases effectiveness and productivity, brings new perspectives and solutions to the table, unlocks greater resources, and strengthens efforts across all...of our work.”¹³

If the United Nations can do it, surely the WTO can, too.

11 WTO, “Nine candidates nominated for the post of Director-General” (3 January 2013), online: <www.wto.org/english/news_e/news13_e/dgse1_03jan13_e.htm>.

12 United for Gender Parity, “A faster track to gender parity”, online: <www.un.org/gender/>.

13 *Ibid.*



Exploring Best Practices in Promoting Gender Parity

Luz María de la Mora

International trade is a key engine of economic growth and development: it creates business and job opportunities and facilitates innovation and the transfer of knowledge and technology. Trade creates wealth and has the potential to reduce income gaps and, quite certainly, the gender gap.

Today, there are approximately 187 million women-owned businesses worldwide, but women throughout the world still face structural problems in participating in business and in international trade.¹

According to WEConnect International, if “women and men participated equally in the economy, the global GDP could grow by US\$28 trillion by 2025, the size of the US and Chinese economy combined.”² Likewise, the World Economic Forum finds that “improving gender parity may result in significant economic dividends.”³

International organizations, governments and corporations have come to realize that integrating women into the global marketplace is a powerful equalizer.

Numerous international initiatives — the Clinton Global Initiative, Global Banking Alliance for Women, WEConnect International, Vital Voices Global Partnership and Pro Mujer to name a few — have developed specific programs that put businesswomen at the forefront and help them thrive. By partnering with local organizations that have deep roots in their communities and by bringing global best practices to the table, these international organizations are working at the grassroots level to help businesswomen get more access to local, national and global markets.

While women make unique contributions in terms of vision, competitiveness, productivity, profitability and innovations to the world of business, they still find it difficult to participate in local and global markets. This is because they are at a disadvantage in a number of areas that need to be tackled in a well-structured and gender-sensitive way. These areas include business

1 WEConnect International, online: <<https://weconnectinternational.org/en/>>.

2 WEConnect International, “About Us”, online: <<https://weconnectinternational.org/en/about-us/who-we-are/>>.

3 World Economic Forum, *The Global Gender Gap Report 2017* (Geneva, Switzerland: World Economic Forum, 2017), online: <www3.weforum.org/docs/WEF_GGGR_2017.pdf>.

skills, information, contacts, support networks, mentorships, and access to financing and support systems that encourage women to succeed.

To address these needs, best practices have been developed and are beginning to show a deep impact:

- It is evident that women need to improve their business skills to develop sustainable firms. To address this need, various organizations have focused on offering women access to training programs and sessions that help improve their understanding of how best to operate their businesses. This kind of training has been most effective when it considers women's needs — for example, offering the flexibility that allows women to attend sessions while also being able to fulfill work and family responsibilities.
- Women encounter numerous barriers to accessing the right information at the right time. Since information is not always readily available to them, programs — such as those implemented by WEConnect International — directly address this challenge. Through digital means, in-person training sessions and one-to-one contacts, women can obtain the information they need to increase their access to local and global supply chains. Experience shows that when women know what their potential consumer needs, they respond swiftly and in innovative ways.⁴
- Women need support networks that allow them to be part of a business community that offers opportunities to learn about other women's experiences. Local, national and global networks can be extremely powerful in helping women do business at home and abroad, and business networks for businesswomen are essential for encouraging women to identify, create and develop business opportunities.
- Access to contacts is also key to doing business. While women's networks are a valuable resource, they are not always close to the “who's who” of business, which is often integral to trade and contract development. Connecting women to market opportunities provides businesswomen with contacts that will open the door for them to make their business case.
- Financing can determine whether a business gets a boost or goes bust, and this is certainly the case for women entrepreneurs. The *Global*

Findex Database underscores that women lag behind men when it comes to financial access.⁵ The first step for women to gain access to loans is to receive financial education. Organizations such as Pro Mujer⁶ in Latin America and the Global Banking Alliance for Women⁷ directly tackle this bottleneck by training women in financial education, but also by informing the financial sector about the win-win proposition of offering women financial services and access to capital.

- Mentoring can be an extremely powerful instrument for women to develop and grow their businesses. Vital Voices Global Partnership has developed mentoring programs in which an established professional in the business world mentors a businesswoman for a period of time to help her address specific challenges in the development of her business.⁸ These programs have proven to be extremely effective in terms of growth and sustainability of the business, as well as in creating market opportunities that have multiple spillover effects in their own communities.⁹

Promoting gender parity could stimulate growth in international trade and, specifically, in global value chains, where more than 60 percent of trade in goods takes place.¹⁰ The recently signed Comprehensive and Progressive Agreement for Trans-Pacific Partnership established gender equality as a key area for “cooperation and capacity building activities...to assist in implementing this Agreement and accelerating growth.”¹¹ Successfully integrating businesswomen into world markets requires more than a legal framework; it requires targeted interventions that effectively allow businesswomen to participate in the global marketplace. This may prove to be the best investment to boost international trade and, hence, the growth of the world economy.

4 WEConnect International, “Affani Ithalat Ihracat”, online: <<https://weconnectinternational.org/en/womens-business-enterprises/success-stories/affani-ithalat>>.

5 World Bank, *Global Findex Database 2017*, online: <<https://globalfindex.worldbank.org/>>.

6 Pro Mujer, online: <<https://promujer.org/>>.

7 Global Banking Alliance for Women, online: <www.gbaforwomen.org>.

8 Vital Voices Global Partnership, online: <www.vitalvoices.org/>.

9 Zoë Dean-Smith, “The Power of Mentoring to Accelerate Women's Leadership & Economic Empowerment: GAP Heads to New York City”, *Global Ambassadors Program* (15 March 2018), online: <www.global-ambassadors.org/story/power-mentoring-accelerate-women%E2%80%99s-leadership-economic-empowerment-gap-heads-new-york-city>.

10 International Trade Centre, “Connecting to International Value Chains”, online: <www.intracen.org/itc/goals/connecting-to-value-chains-SME-competitiveness-diversification-and-links-to-export-markets/>.

11 *Comprehensive and Progressive Agreement for Trans-Pacific Partnership*, 8 March 2018, (not yet entered into force), online: <<http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cptpp-ptpp/text-texte/cptpp-ptpp.aspx?lang=eng>>.



Women Support Trade in the United Kingdom

Anastassia Beliakova

There has been a great deal of attention given as of late to women in trade. Indeed, in December 2017, for the first time in the history of the World Trade Organization (WTO), members endorsed a collective initiative to increase the participation of women in trade.¹ But given that those three words — women in trade — don't offer much detail, it's worth asking which women, exactly, champion women's engagement in trade today and how they offer that support.

At the British Chambers of Commerce (BCC) in the United Kingdom, much of the work is focused on trade support and trade facilitation: helping businesses get their certificates of origin, navigating regulations in other jurisdictions or understanding how to find partners in a different market. There are more than 350 people working in these areas in the BCC. The majority of them are women, and many of them exemplify characteristics that will change women's economic future.

¹ WTO, *Joint Declaration on Trade and Women's Economic Empowerment on the Occasion of the WTO Ministerial Conference in Buenos Aires in December 2017*, online: <www.wto.org/english/thewto_e/minist_e/mc11_e/genderdeclarationmc11_e.pdf>.

Patience

Maggie Chilton has worked at the BCC for 20 years, developing and overseeing the training of chamber staff to build the skills they need to advise companies on trade. She suspects that “around 85 percent” of the staff that work in documentation and export support are women — which contrasts with the fact that the majority of export sales managers (at the companies that the BCC advises) are men.

“You need a great deal of patience to sit and talk through things with exporters,” she says.

Her own work with BCC staff has required “a lot of handholding and support — a lot of patience.” Her job has involved looking at people's weak spots and strengths and understanding how to bring out the best in them.

“People need encouragement and assistance,” she says. “The most successful people in this field — usually women — are more empathetic, consensus building. Seeing the continuous progress in the people I have helped, as well as their appreciation, is what has kept me going all these years.”

Attention to Detail

It is undeniable that working in trade — and particularly in trade facilitation — requires a keen eye for detail. Susana Córdoba, head of international trade at the Greater Manchester Chamber of Commerce, started her career working for a small exporting firm in Colombia. The role involved dealing with heaps of paperwork, so that the company could take advantage of a preferential trade arrangement with the United States.

“One single mistake in the paperwork could end up being very costly for the company and could have a huge impact on taxes,” she says.

According to Córdoba, the clerical part of trade is very important, and the job of complying with rules of origin is demanding: “You must pay attention to detail. But sometimes you have to be superhuman to understand what the rules [are] trying to say; they are often not straightforward.”

In short, trade often requires a broad skillset, which is not easy to find. There is a need for both a technical mindset and a creative approach to problem solving or interpreting rules.

Curiosity and Commitment

Brigid Hodgkinson, international trade manager at the Northamptonshire Chamber of Commerce, has been working there for the last 20 years.

“You have to be curious about trade, look to uncover why things are happening and for what reason,” she says. “The documentation form may stay the same, but you will be dealing with different country regulations and with different scenarios.”

She concedes that the work involved a significant amount of routine, which she ventures women are good at. Hodgkinson says that for this line of work, it is helpful to have an inquisitive nature and patience for the regulatory side of things.

“It is work that is meticulous but is not automatic — we are inquirers and researchers. It is not just about doing something quickly; you have to follow it through to the end of the trail.”

Hodgkinson had previously worked in freight forwarding and manufacturing, which, she says, were “very fast-paced — very male dominated. It is an attitude of: ‘Is the paint dry yet? Can we ship it?’” Even in those fields, she noticed, the majority of staff doing process-heavy customs work are women.

People Skills

But work in export documentation is not just about filling in forms — it also involves a lot of multitasking and running around on a daily basis: taking payments, answering enquiries, providing customer service and thinking on one's feet.

“You have to be flexible, adaptable and efficient,” says Jane Rose, head of international trade at the Essex Chambers of Commerce. She joined the chamber seven years ago as an export documentation clerk and now manages a team of four, all of whom are women. “There must be men who have these skills, but they have been hard to find — and not many would be willing to accept these roles, which are incredibly pressurized and can often be seen as ‘behind the scenes work.’”

These roles may be behind the scenes, but Rose and her team have accomplished incredible results for the companies they support. One food producer's goods were stuck at customs in Israel due to a clerical error. Within a week of Rose contacting embassies and other bodies, the goods were released when a local ministry issued a decree letter to clear the consignment.

Another company's oyster shipment was detained in customs in Thailand and required a health certificate. Rose and her team were able to influence a local regulation change that allowed those goods to be cleared without a certificate.

“We open up doors. We will have the network and connections to make things happen,” she says. “And companies want to talk to somebody; they need to know someone will be there to help them. The personal aspect of doing trade is very important.”

It is striking that a line of work that is so critical to trade has received so little public attention — and it is remarkable that it is so female dominated. Some of the interviewees suggested practical reasons: many women initially come into these jobs on a part-time contract, or, if they are raising a family, this line of work may offer more flexibility than others. The work these women do — helping with documentation, advising businesses and helping train staff — is not seen as the most glamorous career path.

At the same time, as the interviews have shown, these roles require a remarkable breadth of skills: attention to detail, creative problem solving, patience, perseverance, people skills and commercial focus.

When asked about the rewards of the role, Bernadette Speedy, head of export documentation at the Greater Manchester Chamber of Commerce, says, “I get great satisfaction when someone comes in with a problem and I solved it for them.”

When we think of trade, we think of sales managers, business owners and logistics providers — rarely do we remember the support teams that are critical for complying with rules of origin or who can help release a consignment stuck at customs. Let us finally give credit where credit is due to the unsung women of trade.



The Unsung Women Facilitating Global Trade

Susan Baka

From the United Nations to the World Trade Organization (WTO) to the Organisation for Economic Co-operation and Development, there is an increasing awareness of the significant potential to accelerate women's economic empowerment.

A 2015 study by the McKinsey Global Institute found that advancing women's equality could add \$12 trillion to global GDP by 2025.¹ However, women are under-represented in international trade, with only one in five women involved in exporting. Among the barriers are a lack of access to international contacts, opportunities, financing, global supply chains, export promotion programs and role models. Efforts to encourage female business owners to export and to support them in expanding globally often focus on what governments can do. Most recently, these efforts have emphasized making trade more inclusive for women and removing the barriers to women's participation. These are laudable initiatives.

¹ Jonathan Woetzel et al, *How advancing women's equality can add \$12 trillion to global growth* (McKinsey Global Institute, 2015), online: <www.mckinsey.com/global-themes/employment-and-growth/how-advancing-womens-equality-can-add-12-trillion-to-global-growth>.

But what is less understood and appreciated is the role women themselves are taking.

Women's trade organizations and networks encourage and facilitate participation in the global marketplace immensely. The Organization of Women in International Trade (OWIT), a non-profit body with 20 chapters in Canada, the United States, Latin America, Europe and Africa, is a great example.² OWIT is dedicated to advancing global trade opportunities for women, whether they are business owners, professionals, executives or service providers. OWIT acts as a collective forum to address systemic barriers women face by actively supporting education, facilitating information exchange and networking, staying at the forefront of trade and technological developments, and building partnerships and alliances with peer organizations and associations to inform and advocate for change within the broader global community. Trade missions, new chapter mentoring, government education and student involvement are also among OWIT's efforts.

² Organization of Women in International Trade, online: <www.owit.org/>.

Most notable is that this work is done by volunteers — busy women with their own businesses or demanding careers, who are often raising children as well.

As governments and multilateral bodies decide how to address women's economic empowerment, it's worth considering exactly why women are so invested in shaping their own economic future.

Some women work in a male-dominated field and are seeking a collegial network of like-minded women from whom to learn and draw inspiration. Many see the value in expanding their international contacts, which can lead to new business opportunities. Likewise, many members attribute their path to success to having roots in the network.

Laura Ipsen, general manager and senior vice-president of Oracle Marketing Cloud and one of the original members of OWIT, encourages women to embrace OWIT as a community that is special: "It helped me understand international trade and brought some of the greatest opportunities in my career," she says. "And this was not just an organization about policies and regulations, but mostly about a community of women supporting other women."

Let's take a closer look at the influence such an organization can have in helping break down barriers.

Educating the Policy Makers

A trade delegation of 12 OWIT leaders attended the WTO Public Forum³ in Geneva in 2016 to meet with ambassadors and representatives of trade bodies, including the WTO, the International Trade Centre and the United Nations Conference on Trade and Development. They also presented a panel on active participation of small and medium-sized enterprises and women in global markets⁴ and hosted a booth, themed "Hidden Faces of Trade," to showcase the wide range of OWIT-member careers and businesses.

This delegation raised the profile of OWIT on the international stage, created new alliances for the organization with policy-making bodies and showcased the impressive array of talent among its membership.

In meeting with the group, then US ambassador to the WTO, Michael Punke, lauded the organization for its booth theme and for illustrating the human element of trade at a time of escalating anti-globalization

sentiment. He urged the women not to underestimate the power of their stories, any one of which, he said, was more compelling than a thousand statistics in support of trade. Perhaps no stronger testament to OWIT's influence can be stated.

Spearheading Trade Missions and Educational Events

OWIT facilitates trade in a very practical manner — this is exemplified by the letter of cooperation signed by OWIT-Toronto and OWIT-Monterrey in 2017 in the presence of Canada's minister of international trade. Two seminars were recently held in Monterrey to promote two-way trade between the countries: exporting to Canada for Mexican food producers and exporting to the Monterrey aerospace cluster for the Canadian aerospace industry. The events were orchestrated by both OWIT chapters in partnership with TFO Canada and supported by the Canadian consulate. Some participants are already planning to travel to Canada to attend upcoming trade shows. An OWIT-Toronto trade mission to Mexico for women exporters in the Canadian auto, aerospace and information communications technology sectors will take place this fall to further promote two-way trade between these countries.

It's time for public and private sectors to step up and better support women's business organizations such as OWIT. Lip service and token financial assistance are not enough. Such organizations need meaningful support and sponsorships to complement the countless volunteer hours and efforts.

If their true economic potential is to be unleashed, women must be taken seriously in business, and so should women-led organizations such as OWIT. As demonstrated by their actions, such bodies know how to get the job done when it comes to moving the needle on women's economic empowerment and engagement in international trade.

3 WTO, "Shaping the Rules to Facilitate Active Participation of SMEs and Women in Global Markets" (27 September 2016), online: WTO Public Forum '16 <www.wto.org/english/forums_e/public_forum16_e/wrkseions_e/session17_e.htm>.

4 Ibid.

Contributors

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Before joining UNCTAD in 2016, she worked as an assistant professor of economics in Izmir, Turkey, from 2011 to 2016. Her main research fields are development economics, the economics of gender and labour economics. Her papers have been published in international journals, including the *Journal of Development Studies* and *Developing Economies*, and in international books. She received her Ph.D. in economics from the University of Utah in 2011, her M.A. in economics from Istanbul Technical University (ITU) in 2005 and her B.Sc. in management engineering from ITU in 2002.

Otylia Babiak joined the International Centre for Settlement of Investment Disputes (ICSID) in January 2013 and works as legal counsel, institutional matters. Prior to joining the ICSID, she worked as a deputy counsel with the Secretariat to the International Court of Arbitration of the International Chamber of Commerce (ICC) and as a deputy manager with the ICC's International Centre for Alternative Dispute Resolution in Paris, France (2010–2012).

She holds degrees from Suffolk University Law School (J.D.) and from Boston University (B.A.). She is admitted to practice law in the Commonwealth of Massachusetts and is pending admission to the New York State Bar.

Susan Baka is a communications specialist from Toronto, Canada; an authority on international trade, women's entrepreneurship and diversity; and a prolific writer and speaker. She works with financial institutions, governments and organizations to help companies expand globally. Susan is also the regional representative (Ontario) for the Trade Facilitation Office Canada, which helps exporters from developing countries find linkages and buyers in the Canadian market.

She is also a founder and vice-president, international, of the Organization of Women in International Trade (OWIT) Toronto chapter and has served on the international board for more than a decade. She has spearheaded communications initiatives and trade missions and mentored the start-up of OWIT chapters in other countries, sharing Canadian best practices.

An advocate for women exporters, Susan served on the Canadian minister of international trade's Small and Medium-Sized Enterprises Advisory Board (2008–2011) and is participating as a stakeholder for OWIT in consultations with the Canadian government on the renegotiation of the North American Free Trade Agreement. She has received international awards, including the International Alliance of Women's World of Difference Award, which recognizes 100 women worldwide for contributing to women's economic empowerment.

Anastassia Beliakova is head of trade policy at the British Chambers of Commerce (BCC), devising and advocating policy positions on the United Kingdom's exit from the European Union and international trade relations, as well as export support for businesses. The BCC represents 75,000 companies of all sizes and from all sectors. These companies employ nearly six million people across the United Kingdom.

Anastassia's expertise is in customs, cross-border cooperation and rules of origin, as well as in small and medium-sized enterprise participation in international trade. She regularly attends media appearances and

speaks at events on Brexit and trade, provides evidence to the UK Parliament on business priorities and sits on the steering group of the UK Trade Forum.

Prior to joining the BCC, Anastassia worked in corporate communications, advising both corporate and government clients. She studied at the University of Oxford and at Sciences Po.

François-Philippe Champagne was elected the member of Parliament for Saint-Maurice-Champplain on October 19, 2015. A few weeks later, he was appointed parliamentary secretary to the minister of finance of Canada, a position he held until January 10, 2017, when he was appointed minister of international trade by Prime Minister Justin Trudeau.

Arjan de Haan is the Employment and Growth program lead at Canada's International Development Research Centre. He oversees the Growth and Economic Opportunities for Women program, a special initiative launched in 2013 in partnership with the United Kingdom's Department for International Development and the William and Flora Hewlett Foundation. He has more than a decade of experience working at the Department for International Development and at universities in the United Kingdom and the Netherlands.

Luz María de la Mora is the director of WEConnect International in Mexico, an organization that links Mexican businesswomen with corporations that undertake global supplier diversity programs. She is the founder of the firm LMM Consulting, a Mexico-based company devoted to helping companies increase trade and devise business development strategies. She is also the founder of the Mexico chapter of Vital Voices Global Partnership.

An expert in foreign trade relations and international public policy, she has served as undersecretary for economic relations and international cooperation at Mexico's Ministry of Foreign Affairs and as assistant undersecretary for international trade negotiations in Mexico's Ministry of Economy. She headed Mexico's trade offices in Brussels, Belgium, and Montevideo, Uruguay, and worked at the North American Free Trade Agreement office in Washington, DC. She has a B.A. in international relations from El Colegio de México, an M.A. in international political economy from Carleton University and a Ph.D. in political science from Yale University.

Diane Elson is an emeritus professor at the University of Essex and a visiting professor at the Centre for Research on Women in the Scottish Economy, Glasgow Caledonian University. In 2016, she was awarded the Leontief Prize for Advancing the Frontiers of Economic Thought. She

is a member of the G7 Gender Equality Advisory Council and an adviser to UN Women. She has published widely on gender equality and economic policy, including on the feminist economics of trade.

Oonagh E. Fitzgerald is director of CIGI's International Law Research Program. She established and oversees CIGI's international law research agenda, which includes policy-relevant research on issues of international economic law, environmental law, intellectual property law and innovation, and Indigenous law.

She has extensive experience as a senior executive in the federal government, providing legal policy, advisory and litigation services, and strategic leadership in international law, national security, public law, human rights and governance.

As national security coordinator for the Department of Justice Canada from 2011 to 2014, Oonagh ensured strategic leadership and integration of the department's policy, advisory and litigation work related to national security. From 2007 to 2011, she served as the Department of National Defence and Canadian Forces legal adviser, leading a large, full-service corporate counsel team for this globally engaged, combined military and civilian institution. Before this, Oonagh served as acting chief legal counsel for the Public Law Sector of the Department of Justice and special adviser for International Law.

Oonagh served as assistant secretary Legislation, House Planning/Counsel at the Privy Council Office from 2000 to 2003. Prior to this, she held various positions in the Department of Justice: senior general counsel and director general, Human Resources Development Canada Legal Services Unit; general counsel and director, International Law and Activities Section; senior counsel for Regulatory Reform; and legal adviser, Human Rights Law Section. She began her legal career at the Law Reform Commission of Canada, the Competition Bureau and the Immigration Appeal Board.

Oonagh has taught in the faculties of Law and Business Administration at the University of Ottawa, as well as in the Department of Law at Carleton University, l'Institut international du droit de l'homme and the International Institute of Humanitarian Law.

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She has been a member of the International Working Group on Gender, Macroeconomics and International Economics since the late 1990s. She has provided research and advisory support to a number of international organizations, including the International Labour Organization, United Nations Development Programme, United Nations Industrial Development Organization, United Nations Research Institute for Social Development, United Nations Conference on Trade and Development, Food and Agriculture Organization of the United Nations, World Food Programme, UN Women, World Bank and the International Food Policy Research Institute. She has fieldwork experience mostly in Asia (India, Bangladesh, Vietnam, Lao People's Democratic Republic and Fiji Islands).

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At CIGI, Patricia's research focuses on global, plurilateral and regional trade arrangements, in particular, Canada's agreement with the European Union on the Comprehensive Economic and Trade Agreement and the Trans-Atlantic Trade and Investment Partnership.

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Meg Kinnear is secretary-general of the International Centre for Settlement of Investment Disputes, joining in June 2009. She previously served as senior general counsel (2006–2009) and director general of the Trade Law Bureau of Canada (1999–2006). Prior to this, Meg was the executive assistant to the deputy minister of justice of Canada (1996–1999) and counsel at the Civil Litigation Section of the Canadian Department of Justice (1984–1996). She has frequently spoken on and published material about international investment law and procedure, including as a co-author of *Investment Disputes Under NAFTA* (Kluwer Law Publications, 2006; updated editions released in 2008 and 2009). Meg holds degrees from the University of Virginia (LL.M.) and McGill University (LL.B.). She is admitted to the Bar of the Law Society of Upper Canada (Ontario) and the District of Columbia Bar.

Susana Malcorra was Argentina's minister of foreign affairs and worship until July 2017. After her resignation as foreign minister, she became minister adviser to the president until December 2017, presiding over the eleventh WTO Ministerial Conference held in Buenos Aires.

She holds a degree in electronics engineering from the University of Rosario and has 25 years' professional

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Malcorra left Telecom Argentina in 2002 after deciding to seek opportunities in the field of non-profit organizations. She succeeded in 2004 by joining the UN World Food Programme. There, she served as chief operating officer, which provided an opportunity to apply her experience and energy to a new cause, superior in meaning and magnitude to what she did in business. In May 2008, the UN Secretary-General appointed her as Under-Secretary-General of the recently created Department of Field Support, where she was charged with providing logistics, communications, personnel and financial support services to UN peacekeeping operations throughout the world.

In April 2012, Malcorra became chief of staff to UN Secretary-General Ban Ki-moon. Thus, in addition to her long career as an executive, she gained invaluable experience in the diplomatic field, including a range of activities, from handling complex negotiations in various countries (Democratic Republic of the Congo, Sudan and Somalia, among others), to the approval by the General Assembly of strategic, financial and budgetary matters involving \$9 billion. Among other salient tasks, Malcorra coordinated the Organisation for the Prohibition of Chemical Weapons-UN Joint Mission on the elimination of Syrian chemical weapons and the first UN Mission for Ebola Emergency Response in West Africa.

Maria Panezi is a research fellow with CIGI's International Law Research Program. She holds a Ph.D. in law from Osgoode Hall Law School at York University, where she was a Nathanson Fellow and a Comparative Law and Political Economy Fellow.

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Maria has been an adjunct professor at Osgoode Hall Law School and has taught ethical lawyering in a global community, as well as law and economics, for which she received the Ian Greene Award for Teaching Excellence. She has also been a visiting scholar at Harvard Law School and the Fletcher School of Law and Diplomacy at Tufts University.

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Chiara is working on the customization of UNCTAD's online course on trade and gender for selected regional economic communities. Specifically, her current responsibilities include an analysis of the impact of regional trade integration in the Southern Africa Development Community and the Southern Common Market (Mercosur) on women's well-being and gender inequalities.

She is an associate professor in economics at the University of Denver. Her expertise lies in the areas of development economics, environmental economics and gender economics. Her research centres on the Chinese economy and on the impact of globalization on social welfare examined from a gender perspective.

She holds a Ph.D. in economics from the University of Utah; an M.Sc. in economics, specializing in the Asia-Pacific region, from the School of African and Oriental Studies; and a summa cum laude laureate in economics from Luigi Bocconi University.

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Balakrishnan is recognized as a founder of, and leading participant in, the Third World Approaches to International Law network of scholars. He has been a member of the executive council and executive committee of the American Society of International Law and currently serves on the Asia advisory board

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He has published numerous scholarly articles and book chapters and is the author of two books: *International Law from Below: Development, Social Movements and Third World Resistance* (Cambridge University Press, 2003) and *Reshaping Justice: International Law and the Third World* (co-editor) (Routledge, 2008). He has also published widely in the media on human rights and international law and issues concerning the Global South in such publications as *The Boston Globe*, *The Hindu*, *The Washington Post*, *The Indian Express*, *El Universal*, *The Nation* and huffingtonpost.com.

Julia Seiermann is an economist in the United Nations Conference on Trade and Development (UNCTAD) Trade Analysis Branch, where she works on international trade, trade policy and their links to different aspects of sustainable development. Most recently, she has conducted research on the text-as-data analysis of trade agreements and on least-developed countries' exports and employment that includes a gender dimension. Previously, Julia has worked on capacity-building activities for researchers from developing countries at UNCTAD's Virtual Institute and on field research on financial inclusion in rural India at the Centre for Finance and Development at the Graduate Institute. She is currently pursuing a Ph.D. in development economics at the Graduate Institute.

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Debra was the first director of the Appellate Body Secretariat of the World Trade Organization (WTO). During the Uruguay Round, she was the senior negotiator on dispute settlement and the establishment of the WTO, as well as the principal legal counsel for the Government of Canada. She has served as general counsel of the Canadian International Trade Tribunal and practised international trade, investment and competition law with major law firms in Canada. Debra has served on dispute settlement panels in the WTO, the North American Free Trade Agreement (NAFTA) and the Canadian Agreement on Internal Trade. She has been appointed to dispute settlement rosters for free trade agreements, including NAFTA and the Canadian Free Trade Agreement, acted as counsel in WTO and NAFTA

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Debra has an LL.M. from the University of Michigan, an LL.B. from the University of Victoria and a B.A. from the University of British Columbia. She has published 11 books and more than 140 articles, book chapters and reports on international trade law, international investment law, international organizations and international dispute settlement/arbitration.

Cherise Valles is deputy director at the Advisory Centre on World Trade Organization Law (ACWL). The ACWL is an international organization, independent from the World Trade Organization (WTO), with a mandate to ensure that developing and least-developed countries are able to protect their interests in the WTO legal system. Cherise has assisted the ACWL's developing country members at all stages of the dispute settlement proceedings, before the WTO Appellate Body, panels and arbitrators. Before joining the ACWL, she was at the US law firm of Sonnenschein (now Dentons), where she provided advice to corporate clients on trade law issues, including on the WTO agreements and the North American Free Trade Agreement. Previously, she was a member of the Canadian Foreign Service. As a lawyer in the Trade Law Bureau, Cherise provided legal advice and advocacy services to the Canadian government on a wide range of trade law issues, including services, investment and the Canada-US softwood lumber dispute. She has been appointed as an arbitrator for domain name disputes more than 50 times by the World Intellectual Property Organization.

Simonetta Zarrilli is chief of the Trade, Gender and Development Programme of the United Nations Conference on Trade and Development (UNCTAD) and the organization's Gender Focal Point. Under her guidance, the program provides analytical and policy support to UNCTAD member countries on the gender implications of trade policy and trains academics, policy makers and civil society representatives on trade, gender and development issues. An experienced trade analyst with a long and successful career at the United Nations, Simonetta was assigned to lead UNCTAD's work on trade and gender in 2010. Since then, she has carried out numerous analytical, intergovernmental and technical cooperation activities on this issue, and has produced and coordinated many publications, including country and regional studies, official UN documents and commentaries.

She holds a postgraduate degree in European Studies from the College of Europe and a degree in law from the University of Siena.

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We are the Centre for International Governance Innovation: an independent, non-partisan think tank with an objective and uniquely global perspective. Our research, opinions and public voice make a difference in today's world by bringing clarity and innovative thinking to global policy making. By working across disciplines and in partnership with the best peers and experts, we are the benchmark for influential research and trusted analysis.

Our research programs focus on governance of the global economy, global security and politics, and international law in collaboration with a range of strategic partners and support from the Government of Canada, the Government of Ontario, as well as founder Jim Balsillie.

À propos du CIGI

Au Centre pour l'innovation dans la gouvernance internationale (CIGI), nous formons un groupe de réflexion indépendant et non partisan doté d'un point de vue objectif et unique de portée mondiale. Nos recherches, nos avis et nos interventions publiques ont des effets réels sur le monde d'aujourd'hui car ils apportent de la clarté et une réflexion novatrice pour l'élaboration des politiques à l'échelle internationale. En raison des travaux accomplis en collaboration et en partenariat avec des pairs et des spécialistes interdisciplinaires des plus compétents, nous sommes devenus une référence grâce à l'influence de nos recherches et à la fiabilité de nos analyses.

Nos programmes de recherche ont trait à la gouvernance dans les domaines suivants : l'économie mondiale, la sécurité et les politiques mondiales, et le droit international, et nous les exécutons avec la collaboration de nombreux partenaires stratégiques et le soutien des gouvernements du Canada et de l'Ontario ainsi que du fondateur du CIGI, Jim Balsillie.

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